

UNITED STATES DISTRICT COURT

District of Utah

UNITED STATES OF AMERICA

v.

Marcus Ryan Bouie

BY:

DEPUTY CLERK

JUDGMENT IN A CRIMINAL CASE

Case Number: DUTX 1:08-cr-000087-001

USM Number: 15738-081

Heather E. Harris

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) Cnt III - Indictment
☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| Title & Section | Nature of Offense | Offense Ended | Count |
|-----------------|---|---------------|-------|
| 21USC§841(a)(1) | Possession of a Controlled Substance with Intent to Distribute. | | III |

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

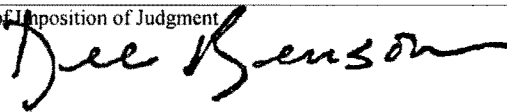
☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) I, II and IV ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

11/17/2011

Date of Imposition of Judgment



Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

11/18/2011

Date

DEFENDANT: Marcus Ryan Bouie
CASE NUMBER: DUTX 1:08-cr-000087-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:
60 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends that the defendant be placed at the Federal Correctional Institution at Herlong, for family visitations.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Marcus Ryan Bouie
CASE NUMBER: DUTX 1:08-cr-000087-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Marcus Ryan Bouie
CASE NUMBER: DUTX 1:08-cr-000087-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall participate in a mental health treatment program under a co-payment plan as directed by the probation office, take any mental health medications as prescribed and not possess or consume alcohol, nor frequent businesses where alcohol is the chief item of order, during the course of treatment or medication.
2. The defendant will submit to drug/alcohol testing under a co-payment plan as directed by the probation office.
3. The defendant shall participate in a substance abuse evaluation and/or treatment under a co-payment plan as directed by the probation office. During the course of treatment, the defendant shall not consume alcohol nor frequent any establishment where alcohol is the primary item of order.
4. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by the United States Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.

DEFENDANT: Marcus Ryan Bouie
CASE NUMBER: DUTX 1:08-cr-000087-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

| | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| TOTALS | \$ 100.00 | \$ | \$ |

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
|----------------------|--------------------|----------------------------|-------------------------------|

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|---------------|----|-------------|----|-------------|
| TOTALS | \$ | <u>0.00</u> | \$ | <u>0.00</u> |
|---------------|----|-------------|----|-------------|

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Marcus Ryan Bouie
CASE NUMBER: DUTX 1:08-cr-000087-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

SEE DOCKET ORDER 114

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

FILED
U.S. DISTRICT COURT

2011 NOV 21 P 4:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

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Austin J. Riter (11755)
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ariter@parrbrown.com

Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, NORTHERN DIVISION**

MICHAEL WATERS,

Plaintiff,

v.

BANK OF AMERICA, N.A.; BAC HOME
LOANS SERVICING, LP; RECONTRUST,
NA; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
DOES 1 through 10,

Defendants.

PROTECTIVE ORDER

Case No. 1:10-cv-150

Judge Bruce S. Jenkins

Pursuant to Rule 26 of the *Federal Rules of Civil Procedure*, IT IS HEREBY ORDERED
that:

1. The parties to this action may designate documents, deposition testimony, and
other information they produce in this action as "Confidential" as provided herein. Information
designated as "Confidential" is referred to as "Confidential Information."

2. Designations for Confidential Information shall be made in good faith and only where there is a legitimate basis for providing such protection to the information at issue, such as where the information is confidential, proprietary, sensitive, or trade secret information, or where disclosure to the opposing party or use of the information for purposes other than this action may cause competitive injury or harm to the producing party. Other information may be designated as Confidential Information by agreement of the parties or by court order.

3. Confidential Information shall be used solely for the purpose of this action and for no other purpose, and shall not be disclosed to any person except as permitted by this Order. Information designated as "Confidential" may be disclosed by the receiving party and its counsel only to retained experts, the Court and its staff, including court reporters as provided by Paragraph 4 of this Order, parties to whom disclosure may be ordered by a court of competent jurisdiction as provided by Paragraph 12 of this Order, and a person whom the document identifies as an author, recipient and/or addressee of such document. Other persons may be given access to Confidential Information by agreement of the parties or by court order.

4. Nothing in this Order precludes a party from disclosing Confidential Information as may be necessary to support staff for counsel of record or retained experts, court reporters, or persons hired for duplication and document processing.

5. The inadvertent, unintentional, or in camera disclosure of Confidential Information shall not generally be deemed a waiver, in whole or in part, of any party's claims of confidentiality. The inspection of documents prior to copying by opposing counsel likewise shall not be deemed a waiver of any claims of confidentiality, and designations may be made after such inspection when the documents are produced.

6. If a non-party to this action produces information in this action in a deposition, in response to a subpoena, or otherwise, that non-party may designate such information as Confidential Information as provided in this Order, and the parties shall be bound by the terms of this Order with respect to that information.

7. Any retained expert receiving Confidential Information shall be shown a copy of this Order and shall sign an agreement in the form attached hereto as Exhibit "A" agreeing to be bound by this Order.

8. If a party believes that Confidential Information has been improperly designated, the party shall first make a good faith effort to resolve such a dispute with opposing counsel, including by providing written notice specifically identifying the information being challenged and the grounds therefor. In the event that such a dispute cannot be resolved by the parties, the challenging party may provide written notice to counsel for the designating party that the dispute will need to be resolved by the Court. Upon receipt of that written notice, the designating party must within ten (10) business days file a motion asking the Court to review the information and determine whether it should be designated as "Confidential." The burden rests on the designating party to demonstrate that such designation is proper. While any such motion is pending, the information at issue shall continue to be treated as originally designated. If the designating party fails to file such a motion within the specified period of time, the information shall no longer be treated as Confidential Information.

9. A party may designate specific portions of a deposition transcript as Confidential Information in accordance with this Order. Such designations may be made at any time during deposition testimony, and may also be made following the conclusion of the deposition until

thirty (30) days have passed from the date on which the designating party receives the final deposition transcript. If made after the deposition has concluded, such designations shall be made in writing and served upon all counsel. Deposition transcripts shall be treated as “Confidential” in their entirety at all times until this thirty-day period has elapsed, unless all parties agree otherwise or indicate that their designations are complete. Following this thirty-day period, only those portions specifically designated as Confidential Information shall be treated as such.

10. During a deposition, if testimony is designated as “Confidential” or if exhibits are used that are designated as “Confidential,” counsel may request that any persons not entitled to receive such information under this Order leave the deposition room during that portion of the deposition. In the event of any dispute, the individual(s) shall leave the room, but this departure shall not waive any party’s right or ability to request disclosure of the Confidential Information to the excluded individual(s) thereafter.

11. If Confidential Information is filed with the Court, counsel shall file documents and portions of memoranda or other filings containing or disclosing the substance of such Confidential Information under seal, in an envelope indicating that its contents are subject to a Protective Order. If Confidential Information is discussed or offered in evidence during trial or any hearing in this action, the Court may clear the courtroom of any individuals not entitled to receive such Confidential Information under this Order, and the relevant portions of any transcript or video recording of such proceedings will be treated by the parties as Confidential Information under this Order.

12. If any party is served with a subpoena or similar process from any person or entity directing that party to produce Confidential Information, counsel for that party served with the subpoena or similar process shall immediately give counsel for the designating party written notice of the fact of such service to provide the designating party an opportunity to seek a protective order or other appropriate relief prior to the production of any Confidential Information by the party served.

13. Within thirty (30) days of the entry of a final, non-appealable judgment or settlement in this matter, all originals and copies of documents constituting or containing any Confidential Information ^{other than those filed with the court} shall be returned to the producing party or destroyed, unless otherwise agreed by the parties.

14. The Court shall maintain continuing jurisdiction to enforce, modify, or dissolve this Order, and shall retain discretion to impose appropriate sanctions, if any, for violations of this Order.

DATED this 21st day of Nov. 2011.

BY THE COURT:

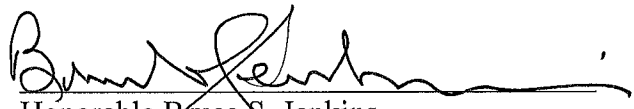

Honorable Bruce S. Jenkins
United States District Judge

EXHIBIT "A"

Michael D. Black (9132)
Austin J. Riter (11755)
PARR BROWN GEE & LOVELESS, P.C.
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Salt Lake City, Utah 84111
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Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, NORTHERN DIVISION**

MICHAEL WATERS,

Plaintiff,

v.

BANK OF AMERICA, N.A.; BAC HOME
LOANS SERVICING, LP; RECONTRUST,
NA; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
DOES 1 through 10,

Defendants.

**AGREEMENT AND UNDERTAKING
REGARDING CONFIDENTIALITY**

Case No. 1:10-cv-150

Judge Bruce S. Jenkins

I, _____, declare, agree, and undertake as
follows:

1. My address is _____

2. My present employer is _____

3. I certify that I have been retained in this case as an independent expert, that my retention is in good faith, and that I do not have any connection to the subject matter of this case other than my role as a retained expert.

4. I have received a copy of the Protective Order entered by the Court in the above-referenced matter. I have carefully read and understand the provisions of the Protective Order. I understand that the Protective Order is binding upon me and I will comply with all of the provisions thereof. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this action any Confidential Information which is disclosed to me. Upon instruction of counsel, I will destroy or return all Confidential Information which comes into my possession to counsel for the party by whom I am employed or retained.

5. I hereby submit to the jurisdiction of the Court for the purposes of enforcement of the Protective Order. I understand that this Agreement will be kept by the counsel that obtained my signature and may be produced upon order of the Court.

6. I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this ____ day of _____ 200__.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Marco Antonio Casillas-Corales,

Defendant.

TRIAL ORDER

Criminal No. 1:11cr00044-002 TS

The final pretrial conference in this matter is scheduled for December 6, 2011 at 2:00 p.m..

This case is set for a 3-day trial to begin on December 13, 2011 at 8:30 a.m. The attorneys are expected to appear in court at 8:00 a.m. on the first day of trial for a brief pre-trial meeting.

Counsel are instructed as follows:

1. Court-Imposed Deadlines.

The deadlines described in this order cannot be modified or waived in any way by a stipulation of the parties. Any party that believes an extension of time is necessary **must** make an appropriate motion to the court.

2. Jury Instructions

The court has adopted its own standard general jury instructions, copies of which may be obtained from the court's website at www.utd.uscourts.gov/judges/stewart_prac.html. The procedure for submitting proposed jury instructions is as follows:

(a) The parties must serve their proposed jury instructions on each other **at least ten business days before trial**. The parties should then confer in order to agree on a single set of instructions to the extent possible.

(b) If the parties cannot agree upon one complete set of final instructions, they may submit separately those instructions that are not agreed upon. However, it is not enough for the parties to merely agree upon the general instructions and then each submit their own set of substantive instructions. The court expects the parties to meet, confer, and agree upon the wording of the substantive instructions for the case to the extent possible.

(c) The joint proposed instructions (along with the proposed instructions upon which the parties have been unable to agree) must be filed with the court **at least five business days before trial**. All proposed jury instructions must be in the following format:

(i) Each instruction should be labeled and numbered at the top center of the page to identify the party submitting the instruction (e.g., "Joint Instruction No. 1" or "Plaintiff's Instruction No. 1"), and include a citation to the authority that forms the basis for it.

(ii) Email a copy of the proposed instructions to utdecf_stewart@utd.uscourts.gov as a Word or WordPerfect document. Include the case number in the subject line. Any party unable to comply with this requirement must contact the court to make alternative arrangements.

(d) Each party should file its objections, if any, to jury instructions proposed by any other party **no later than two business days before trial**. Any such objections must recite the proposed instruction in its entirety and specifically highlight the objectionable language contained therein. The objection should contain both a concise argument why the proposed language is improper and citation to relevant legal authority. Where applicable, the objecting party **must** submit, in conformity with paragraph 2(c)(i) - (ii) above, an alternative instruction covering the pertinent subject matter or principle of law. Any party may, if it chooses, submit a brief written reply in support of its proposed instructions **on the day of trial**.

(e) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper and will not be given.

(f) Modified versions of statutory or other form jury instructions (e.g., Federal Jury Practice and Instructions) are acceptable. A modified jury instruction must, however, identify the exact nature of the modification made to the form instruction and cite the court to authority, if any, supporting such a modification.

3. Verdict Forms

The procedure outlined for proposed jury instructions will also apply to verdict forms.

4. Requests for Voir Dire Examination of the Venire

The parties may request that, in addition to its usual questions, the court ask additional, specific questions to the jury panel. The court's standard voir dire questions are available from the court's website. Any such request should be submitted in writing to the court and served upon opposing counsel **at least five business days before trial**.

5. Motions in Limine

All motions in limine are to be filed with the court **at least five business days before trial**, unless otherwise ordered by the court. Separate memoranda are not required for motions in limine. Responses are to be filed **at least two business days before trial**, unless otherwise ordered by the court. Motions in limine and responses shall be limited to three (3) pages in length.

6. Trial Briefs

Each party should file their Trial Brief, if any, no later than **five business days before trial**.

7. Exhibit Lists/Marking Exhibits

The government is required to prepare an exhibit list for the court's use at trial. An exhibit list is optional for the Defendant. The government should list its exhibits by number; defendants should list exhibits by letter. The required form for exhibit lists is available from the court's website. Questions regarding the preparation of exhibit lists may be directed to the courtroom deputy at 524-6617. All parties are required to pre-mark their exhibits to avoid taking up court time during trial for such purposes.

A copy of any exhibit list should be emailed to utdecf_Stewart@utd.uscourts.gov before trial begins.

In addition, if a large number of exhibits are anticipated, the government should submit copies of their exhibits on a CD or a DVD for the court's use during trial.

8. Witness Lists

The government is required to submit a separate witness list for the court's use at trial. A witness list is optional for Defendant. The required form is available from the court's website. Do not combine the witness and exhibit lists.

A copy of any witness list should be emailed to utdecf_Stewart@utd.uscourts.gov before trial begins.

9. Courtroom Conduct

In addition to the rules outlined in the local rules, the court has established the following ground rules for the conduct of counsel at trial:

(a) Please be on time for each court session. **Counsel shall be present at 8:00 a.m. on the first morning of trial, for a brief pre-trial meeting.** Trial will be conducted from 8:30 a.m. until 1:30 p.m., with two fifteen minute breaks. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have an associate handle them for you

(b) Stand as court is opened, recessed, or adjourned.

(c) Stand when the jury enters or retires from the courtroom.

(d) Stand when addressing, or being addressed by, the court.

(e) In making objections and responding to objections to evidence, counsel should state the legal grounds for their objections with reference to the specific rule of evidence upon which they rely. For example, "Objection . . . irrelevant and inadmissible under Rule 402." or "Objection . . . hearsay and inadmissible under Rule 802."

(f) Sidebar conferences are discouraged. Most matters requiring argument should be raised during recess. Please plan accordingly.

(g) Counsel need not ask permission to approach a witness in order to **briefly** hand the witness a document or exhibit.

(h) Address all remarks to the court, not to opposing counsel, and do not make disparaging or acrimonious remarks toward opposing counsel or witnesses. Counsel shall instruct all persons at counsel table that gestures, facial expressions, audible comments, or any other manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

(i) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and not by their first or given names.

(j) Only one attorney for each party shall examine, or cross-examine, each witness. The attorney stating objections during direct examination shall be the attorney recognized for cross examination.

(k) Offers of, or requests for, a stipulation shall be made out of the hearing of the jury.

(l) When not taking testimony, counsel will remain seated at counsel table throughout the trial unless it is necessary to move to see a witness. Absent an emergency, do not leave the courtroom while court is in session. If you must leave the courtroom, you do not need to ask the court's permission. Do not confer with or visit with anyone in the spectator section while court is in session. Messages may be delivered to counsel table provided they are delivered with no distraction or disruption in the proceedings.

10. Courtroom Technology

If counsel wish to use the courtroom evidence system, they should contact the courtroom deputy **at least five business days before trial**, at (801) 524-6617, to schedule an appointment to become familiar with the technology to be used during trial. Trial counsel and support staff are expected to familiarize themselves with the system and arrange any additional technological needs.

DATED this 22 day of November, 2011.

BY THE COURT:



TED STEWART
United States District Judge

UNITED STATES DISTRICT COURT

District of Utah

UNITED STATES OF AMERICA

v.

Nicacio Luciano-Garcia

JUDGMENT IN A CRIMINAL CASE

Case Number: DUT-11-CR000104-001-CW

USM Number: 18488-081

Michael J. Langford

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Felony Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u> |
|----------------------------|---------------------------------------|----------------------|--------------|
| 8 U.S.C. §1326 | Reentry of a Previously Removed Alien | | 1 |

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

11/21/2011

Date of Imposition of Judgment

Signature of Judge

Hon. Clark Waddoups
Name of Judge

District Court Judge
Title of Judge

Date

11/22/2011

DEFENDANT: Nicacio Luciano-Garcia
CASE NUMBER: DUTX1:11CR000104-001-CW

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:
15 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

the defendant be designated to a facility in southern California

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Nicacio Luciano-Garcia

CASE NUMBER: DUTX1:11CR000104-001-CW

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Nicacio Luciano-Garcia

CASE NUMBER: DUTX1:11CR000104-001-CW

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not illegally reenter the United States. In the event that the defendant should be released from confinement without being deported, he shall contact the U.S. Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the U.S. Probation Office in the District of Utah within 72 hours of arrival in the United States.

DEFENDANT: Nicacio Luciano-Garcia

CASE NUMBER: DUTX1:11CR000104-001-CW

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

| | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| TOTALS | \$ 100.00 | \$ | \$ |

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
|----------------------|--------------------|----------------------------|-------------------------------|

| | | | | |
|---------------|----|------|----|------|
| TOTALS | \$ | 0.00 | \$ | 0.00 |
|---------------|----|------|----|------|

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Nicacio Luciano-Garcia
CASE NUMBER: DUTX1:11CR000104-001-CW

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

JILL COTTLE GARRETT - #12520
VINCENT T. STEVENS - #13370
COTTLE GARRETT LAW
1167 24th St.
Ogden, UT 84401
(801) 627-1736 Phone
(801) 627-1723 Fax
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH NORTHERN DIVISION

LYNN WHITMEYER,
Plaintiff,

v.

**R & O CONSTRUCTION, INC., a business
entity DALE CAMPBELL, an individual,
MIKE HOLLAND, an individual,**
Defendant.

**SCHEDULING ORDER AND
ORDER VACATING HEARING**

Case No. 1:11cv125 CW

District Judge: Clark Waddoups

Magistrate Judge: David Nuffer

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #15). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for December 7, 2011, at 11:30 a. m. is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

| 1. | PRELIMINARY MATTERS | DATE |
|-----------|----------------------------|-------------|
|-----------|----------------------------|-------------|

Nature of claims and any affirmative defenses:

1. Nature of Plaintiff's claims: Lynn Whitmeyer (Plaintiff)

alleges that she was subjected to numerous acts of discrimination, harassment and retaliation during her employment with R & O Construction. Plaintiff's allegations stem from her employer's treatment of Plaintiff's disabilities which included severe kidney stones impacting major life activities. Plaintiff also alleges that she was subjected to multiple occasions of sexual harassment and discrimination. Plaintiff alleges: 1) Failure to accommodate in violation of the Americans with Disabilities Act, 2) Hostile work environment in violation of the Americans with Disabilities Act, 3) Constructive Discharge in violation of the Americans with Disabilities Act and Title VII of the Civil Rights Act, 4) Hostile work environment in violation of Title VII of the Civil Rights Act, 5) Sexual Harassment in violation of Title VII of the Civil Rights Act, 6) Intentional infliction of emotional distress, 7) Assault and Battery.

2. Defenses raised by the defendants in the answer to the First Amended Complaint are those that will be asserted through discovery and in trial. Specifically, the defendants deny that factually there was any gender discrimination or sexual harassment or violation of the Americans with Disabilities Act. Defendants claim that the plaintiff never established with the employer that she had a medical condition that invoked coverage of the Act, that any illness suffered is an impairment that substantially limits one or more major life activities. Plaintiff was accommodated for those physical ailments of which she did complain to an extraordinary degree beyond

that required by the law. The employer had in place established policies concerning employee conduct that was compliant with the law and that plaintiffs claims of fear of retaliation are factually unsupported. Additionally, any incident of alleged sexual harassment was not pervasive, intimidating and abusive to a degree to constitute a hostile work environment. Instead, plaintiff's work practices were deteriorating and correction needed to be taken for legitimate business reasons to protect the business. Any physical contact between the plaintiff and any of the defendants which are now alleged to have been inappropriate were at the time welcomed by the plaintiff. Similarly, plaintiff's claims of emotional distress are barred by the Workers Compensation Act and plaintiff has failed to identify a medically diagnosed mental illness in support of those claims.

None of the alleged wrongful acts were motivated by gender or by disability of the plaintiff. She, herself, did not view those acts as subjectively hostile when they occurred.

Defendants deny plaintiff engaged in any protected activity so as to invoke protection against retaliation nor is there any connection between any protected activity of the plaintiff and her separation from employment. Discovery is needed on the point, but to the extent plaintiff failed to exhaust administrative remedies those claims which were not presented in compliance with the law would be barred. The demand for accommodation because of disability by the plaintiff was unreasonable to the extent she was unable to

perform the essential functions of her job.

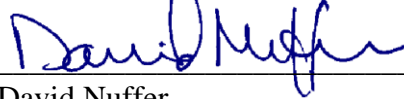
| | | |
|-----------|---|---------------|
| a. | Was Rule 26(f)(1) Conference held? | 11/07/11 |
| b. | Has Attorney Planning Meeting Form been submitted? | With Order |
| c. | Was 26(a)(1) initial disclosure completed? | 12/16/11 |
| 2. | DISCOVERY LIMITATIONS | NUMBER |
| a. | Maximum Number of Depositions by Plaintiff(s) | 10 |
| b. | Maximum Number of Depositions by Defendant(s) | 10 |
| c. | Maximum Number of Hours for Each Deposition (unless extended by agreement of parties) | 7 |
| d. | Maximum Interrogatories by any Party to any Party | 25 |
| e. | Maximum requests for admissions by any Party to any Party | Unlimited |
| f. | Maximum requests for production by any Party to any Party | Unlimited |
| g. | Discovery of electronically stored information should be handled as follows: as specified in the Federal Rules of Civil Procedure, including, but not limited to Rules 34(b)(2)(E) and 45(d)(1) | |
| h. | The parties have no claims of privilege or protection as trial preparation material asserted after production at this time. | |
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES² | DATE |
| a. | Last Day to File Motion to Amend Pleadings | 03/19/12 |
| b. | Last Day to File Motion to Add Parties | 03/02/12 |
| 4. | RULE 26(a)(2) REPORTS FROM EXPERTS³ | DATE |
| a. | Plaintiff | 10/01/12 |
| b. | Defendant | 12/03/12 |
| c. | Counter reports | 01/07/13 |
| 5. | OTHER DEADLINES | DATE |
| a. | Discovery to be completed by: | |
| | Fact discovery | 07/06/12 |

| | | | |
|-----------|---|---------------|-------------------------------|
| | Expert discovery | | 02/08/13 |
| b. | (<i>optional</i>) Final date for supplementation of disclosures and discovery under Rule 26 (e) | | <u>00/00/00</u> |
| c. | Deadline for filing dispositive or potentially dispositive motions | | 03/08/13 |
| 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | | DATE |
| a. | Referral to Court-Annexed Mediation: | <u>Yes</u> | |
| b. | Referral to Court-Annexed Arbitration | <u>No</u> | |
| c. | Evaluate case for Settlement/ADR on | | 04/30/12 |
| d. | Settlement probability: Fair | | |
| 7. | TRIAL AND PREPARATION FOR TRIAL | TIME | DATE |
| a. | Rule 26(a)(3) Pretrial Disclosures ⁴ | | |
| | Plaintiff | | <u>06/14/2013</u> |
| | Defendant | | <u>06/28/2013</u> |
| b. | Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule) | | <u>00/00/00</u> |
| c. | Special Attorney Conference ⁵ on or before | | <u>07/12/2013</u> |
| d. | Settlement Conference ⁶ on or before | | <u>07/12/2013</u> |
| e. | Final Pretrial Conference | 2:30 p.m. | <u>07/29/2013</u> |
| f. | Trial | <u>Length</u> | |
| | i. Bench Trial | <u># days</u> | ____:____ .m. <u>00/00/00</u> |
| | ii. Jury Trial | <u>5 days</u> | 8:30 a.m. <u>08/12/2013</u> |
| 8. | OTHER MATTERS | | |
| | Counsel should contact chambers staff of the judge presiding in the case regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge | | |

to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated November 21, 2011.

BY THE COURT:



David Nuffer

U.S. Magistrate Judge

¹ The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately assigned or referred to that Magistrate Judge.

² Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

³ A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

⁴ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

⁵ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁶ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

United States District Court
for the District of Utah

RECEIVED

NOV 18 2011

Request and Order to Amend Previous Petition

OFFICE OF
JUDGE TENA CAMPBELLName of Offender: **Gary Vinell Cross**Docket Number: **2:01-CR-00194-001-TC**Name of Sentencing Judicial Officer: **Honorable Tena Campbell**
Senior U.S. District JudgeDate of Original Sentence: **July 18, 2002**Original Offense: **Possession of a Firearm by a Convicted Felon 18 U.S.C. § 922(g)(1)**Original Sentence: **120 months prison; 36 months supervised release**FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAHSupervision Began: **December 24, 2009**

PETITIONING THE COURT

NOV 21 2011

☒ To amend the petition signed on August 31, 2011 as follows:D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

CAUSE

Single allegation on August 31, 2011 petition:

Allegation One: Gary Cross committed another local, state or federal crime, to wit: Attempted Murder, a Second Degree Felony; Aggravated Burglary, a Second Degree Felony; Restricted Person in Possession of a Weapon, a Class A Misdemeanor, and Criminal Mischief, a Class B Misdemeanor; all on August 28, 2011, in West Valley City, Utah; all violations of standard conditions of supervised release. (State adjudication pending.)

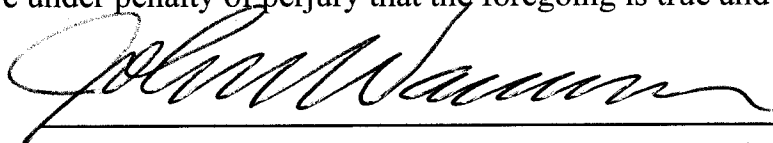
Evidence in support of the allegation is Salt Lake County Adult Detention Complex booking number 11043798, and investigative reports from the West Valley City Police Department.

Amended single allegation:

Allegation One: Gary Cross consumed alcohol on August 28, 2011, in West Valley City, Utah, a violation of a special condition of supervised release.

Evidence in support of the allegation is West Valley City Police Department investigative report number 111035880.

I declare under penalty of perjury that the foregoing is true and correct.




John L. Warner, U.S. Probation Officer

Date: November 17, 2011

THE COURT ORDERS:

- ☒ That the original petition be amended
to include the amended allegation
☐ No action
☐ Other

A handwritten signature in black ink, appearing to read "Tena Campbell", is written over a horizontal line.

Honorable Tena Campbell
Senior U.S. District Judge

Date: 11-21-2011

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SEAGRUM BERNARD FORD,

Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION FOR SENTENCE
REDUCTION

Case No. 2:04-CR-117 TS

This matter is before the Court for consideration of a letter written by Defendant seeking a sentence reduction under the Fair Sentencing Act of 2010. Because Defendant was sentenced to the minimum mandatory sentence of 120 months, Defendant's Motion must be denied.

I. BACKGROUND

Defendant Seagrum Bernard Ford was named in a five-count Indictment on March 3, 2004. Of significance here is Count 4 of the Indictment, which charged Defendant with possessing with the intent to distribute fifty grams or more of a mixture or substance containing cocaine base in violation of 21 U.S.C. § 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(A).

Defendant pleaded guilty to all five counts of the Indictment on March 4, 2005. As to Count 4, Defendant admitted that, on February 20, 2004, he distributed 5.9 grams of a mixture or substance containing cocaine base, and that he possessed an additional 82.7 grams of a mixture or substance containing cocaine base for the purpose of distributing it to others.

Count 4 carried a mandatory minimum sentence of 120 months. On June 13, 2005, the Court sentenced Defendant to the mandatory minimum sentence of 120 months.

II. DISCUSSION

Defendant seeks a sentence reduction under the Fair Sentencing Act of 2010. The relevant portion of the Fair Sentencing Act of 2010 increased the amount of cocaine base required to trigger the 10-year minimum mandatory sentence from 50 grams to 280 grams.

As set forth above, Defendant pleaded guilty to Count 4, admitting that he possessed over 50 grams of cocaine base, thus subjecting him to the then-applicable minimum mandatory sentence of ten years. Under the amended version of 21 U.S.C. § 841, Defendant would not be subject to the minimum mandatory sentence, as he possessed less than 280 grams of cocaine base. However, Congress did not make the statutory change concerning the minimum mandatory retroactive.¹ Because Defendant was sentenced to the mandatory sentence, the Court is without the authority to alter his sentence. The recent amendments to the Sentencing Guidelines similarly fail to provide Defendant with the relief he seeks because Defendant was sentenced under the statutory minimum sentence, rather than the guidelines. Therefore, the Court must deny Defendant's Motion. Defendant was sentenced to the mandatory sentence of 120 months

¹*United States v. Lewis*, 625 F.3d 1224, 1228 (10th Cir. 2010).

and the Fair Sentencing Act of 2010 provides no basis for the Court to reduce Defendant's sentence below that mandatory minimum sentence.

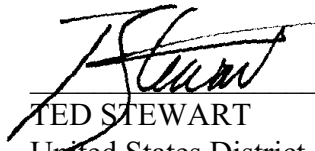
III. CONCLUSION

It is therefore

ORDERED that Defendant's Motion for Sentence Reduction (Docket No. 67) is
DENIED.

DATED November 22, 2011.

BY THE COURT:



TED STEWART
United States District Judge

UNITED STATES DISTRICT COURT

District of Utah

AMENDED

FILED
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Douglas L. Litster

JUDGMENT IN A CRIMINAL CASE P 3:21

Case Number: DUTX2:06CR000315-002-CW

USM Number: 14695-081

Stephen R. McCaughey

Defendant's Attorney

DISTRICT OF UTAH

DEPUTY CLERK

THE DEFENDANT:

☒ pleaded guilty to count(s) 23 of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| Title & Section | Nature of Offense | Offense Ended | Count |
|-----------------|---------------------------------|---------------|-------|
| 15 U.S.C. §77e | Sale of Unregistered Securities | | 23 |

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

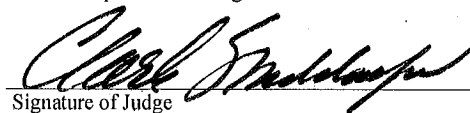
☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) 1, 10-15, 17-21 of the Indictment ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

1/11/2011

Date of Imposition of Judgment



Signature of Judge

Hon. Clark Waddoups

Name of Judge

District Court Judge

Title of Judge

Date

11/22/2011

DEFENDANT: Douglas L. Litster
CASE NUMBER: DUTX2:06CR000315-002-CW

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

No term imposed

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Douglas L. Litster
CASE NUMBER: DUTX2:06CR000315-002-CW

PROBATION

The defendant is hereby sentenced to probation for a term of :

36 months

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Douglas L. Litster
CASE NUMBER: DUTX2:06CR000315-002-CW

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall maintain full-time, verifiable employment throughout the term of supervision, as deemed appropriate by the probation office, and shall not be self-employed.
2. The defendant shall refrain from incurring new credit charges or opening additional lines of credit, unless he is in compliance with any established payment schedule and obtains the approval of the probation office.
3. The defendant shall provide the probation office access to all requested financial information.
4. The defendant shall serve the first 12 months of probation in home confinement to be monitored in a manner deemed appropriate by the probation office, including ankle monitoring. Should the probation office choose to monitor the defendant by ankle monitor, the defendant is to pay all costs associated with monitoring. The defendant is restricted to his residence at all times, except for: medical care, employment or seeking employment, worship services, and/or activities pre-approved by the probation office.
5. The defendant is ordered to make payments toward restitution.
6. The defendant shall not have direct or indirect control over the assets or funds of others.

DEFENDANT: Douglas L. Litster
CASE NUMBER: DUTX2:06CR000315-002-CW

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

| | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| TOTALS | \$ 100.00 | \$ | \$ 2,462,207.00 |

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|
| (see attached list) | | \$2,462,207.00 | |

| | | | | |
|---------------|----|-------------|----|---------------------|
| TOTALS | \$ | <u>0.00</u> | \$ | <u>2,462,207.00</u> |
|---------------|----|-------------|----|---------------------|

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Douglas L. Litster
CASE NUMBER: DUTX2:06CR000315-002-CW

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
the defendant shall pay restitution at a minimum rate of \$100 per month or at a rate determined by the U.S. Probation Office based upon the defendant's financial situation.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

2:06cr00315-001, Thomas J. Robbins, 2:06cr00315-004 Richard C. Bybee, 2:06cr00315-003 Clair Cox

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

The original Statement of
Reasons has not been
modified and will remain
a part of the judgment.

United States Probation Office
for the District of Utah

Report on Offender Under Supervision

Name of Offender: **Jacob Miera**

Docket Number: **2:07-CR-00205-001-TS**

Name of Sentencing Judicial Officer: **Honorable Ted Stewart**
Chief U.S. District Judge

Date of Original Sentence: **September 25, 2007**

Original Offense: **Armed Bank Robbery**

Original Sentence: **46 Months Imprisonment/ 36 Months TSR**

Type of Supervision: **Supervised Release**

Supervision Began: **November 24, 2010**

FILED
U.S. DISTRICT COURT
2011 NOV 24 3:23
DISTRICT OF UTAH
BY: DEPUTY CLERK

SUPERVISION SUMMARY

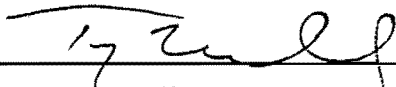
On October 6, 2011, the defendant was subject to a traffic stop while driving his brother's vehicle. The officer determined the defendant was driving on a suspended license and a small quantity of marijuana was located in the vehicle subsequent to a consent search. The defendant was the lone occupant at the time of the stop. The defendant notified this officer immediately about the incident. The arresting officer did as well, and noted the defendant's cooperation and compliance.

As a result, the defendant has been charged in West Valley City Justice Court (Case 111702383) with misdemeanor Possession of a Controlled Substance, Driving on Suspension, and a vehicle equipment infraction. A pretrial conference has been scheduled for November 28, 2011.

In the wake of the incident, the defendant has exhibited renewed compliance and has been successfully enrolled in appropriate counseling. He is aware of the potential ramifications of further violation conduct, in relation to both his supervision and employment status, and appears to have been genuinely deterred from further illicit behavior. Therefore, it is recommended the defendant be allowed to continue under supervision at this time.

If the Court desires more information or another course of action, please contact me at (801) 535-2726.

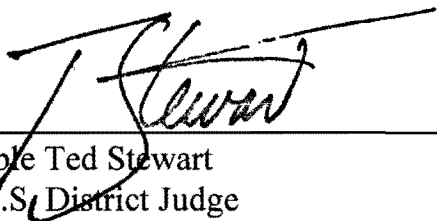
I declare under penalty of perjury that the foregoing is true and correct.



Tony Maxwell
U.S. Probation Officer
Date: November 17, 2011

THE COURT:

- ☒ Approves the request noted above
☐ Denies the request noted above
☐ Other



Honorable Ted Stewart
Chief U.S. District Judge
Date: 11-21-11

United States District Court
for the District of Utah

RECEIVED

NOV 18 2011

Request and Order to Amend Previous Petition

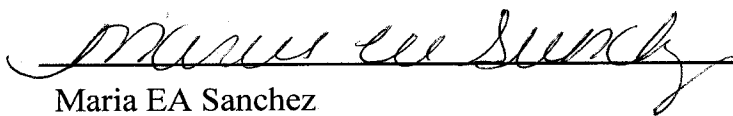
OFFICE OF
JUDGE TENA CAMPBELLName of Offender: **Rafael Palomares-Contreras**
(aka: Angel Castaneda-Lerma)Docket Number: **2:07-CR-00767-001-TC**FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAHName of Sentencing Judicial Officer: **Honorable Tena Campbell**
Senior U.S. District Judge

NOV 21 2011

Date of Original Sentence: **January 31, 2008**D. MARK JONES, CLERK
BY _____
DEPUTY CLERKOriginal Offense: **Reentry of Previously Removed Alien**Original Sentence: **12 Months BOP Custody/36 Months Supervised Release**Type of Supervision: **Supervised Release**Supervision Began: **October 31, 2008****PETITIONING THE COURT**☒ To amend the petition signed on December 8, 2009, as follows:**CAUSE***Allegations on December 8, 2009 petition:***Allegation No. 1:** On or about December 3, 2009, the defendant illegally reentered the United States and was found in Salt Lake County, Utah.*Additional allegations:***Allegation No. 2:** On or about December 3, 2009, the defendant committed another federal, state, or local crime, to wit: possessed an illegal substance (methamphetamine)

Evidence in support of the two above-stated this allegations is documents received from the Salt Lake City Police Department, Case No. 2009-212443, and Third District Court, Salt Lake City, Utah, Case No. 091909419.

I declare under penalty of perjury that the foregoing is true and correct.



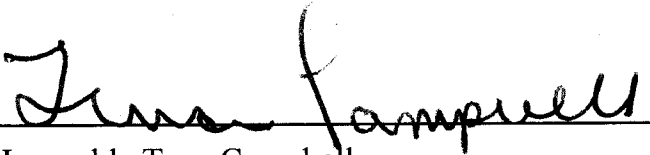
Maria EA Sanchez

U.S. Probation Officer

Date: November 17, 2011

THE COURT ORDERS:

- ☒ That the original petition be
amended to include all allegations
outlined
☐ No action
☐ Other



Honorable Tena Campbell
Senior U.S. District Judge

Date:

11-21-2011

FILED
U.S. DISTRICT COURT

DAVID B. BARLOW, United States Attorney, (#13117)
VERNON G. STEJSKAL, Special Assistant United States Attorney, (#8494)
Attorneys for the United States of America
348 East South Temple
Salt Lake City, UT 84111
Telephone: (801) 524-3083
Facsimile: (801) 524-4366

2011 NOV 22 P 2:17

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

| | | |
|---------------------------|---|-------------------------------|
| | : | Case No. 2:08-CR-293-DB |
| UNITED STATES OF AMERICA, | : | <u>ORDER</u> |
| Plaintiff, | : | ORDERING A PSYCHIATRIC |
| vs. | : | AND/OR PSYCHOLOGICAL |
| JORGE ZETINA-CISNEROS, | : | EXAMINATION, PURSUANT TO 18 |
| Defendant. | : | U.S.C. § 4241(a) TO DETERMINE |
| | : | DEFENDANT'S MENTAL |
| | : | COMPETENCY. |
| | | Judge Dee Benson |

This Court **ORDERS**, based upon good cause, that the defendant submit to a psychiatric and/or psychological examination, pursuant to 18 U.S.C. § 4241(a), to determine defendant's mental competency to stand trial.

Specifically, the Court **RECOMMENDS** that the psychiatric and/or psychological examinations take place at University Neuropsychiatric Institute, 501 Chipeta Way, Salt Lake City, Utah by Dr. Jeffrey Watabe, M.D.

FILED
U.S. DISTRICT COURT

The Court **ORDERS** that, pursuant to 18 U.S.C. § 4247(c), the resulting medical and psychiatric and/or psychological reports be filed with the Court with copies issued to counsel for the United States and the defendant.

BY: _____
DEPUTY CLERK

The Court **ORDERS** that the United States Department of Justice to pay for these pretrial medical and psychiatric and/or psychological examinations.

Finally, the Court **ORDERS** that Speedy Trial time be tolled from the date of the defendant's engagement of a defense expert for psychiatric/psychological evaluation (September 2, 2010) until a hearing can be held to determine defendant's mental competency, pursuant to 18 U.S.C. §§ 3161(h)(1)(a) and 4247(b).

DATED this 22 day of November, 2011.

BY ORDER OF THE COURT:



DEE BENSON, Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

TOM TIBBS, et al.,

Plaintiffs,

v.

JASON K. VAUGHN, et al.,

Defendants.

**SECOND AMENDED
SCHEDULING ORDER**

Case No. 2:08cv787

District Judge Tena Campbell

Magistrate Judge Paul M. Warner

This court granted Tom Tibbs, et al.'s motion to amend the scheduling order in an order issued yesterday.¹ Accordingly, the scheduling order in this matter is amended as follows:

a. Discovery to be completed by:

Fact discovery 01/30/2012

Expert discovery 02/29/2012

b. Final date for supplementation of disclosures
and discovery under Rule 26(e) 03/07/2012

c. Deadline for filing dispositive or
potentially dispositive motions 03/30/2012

d. Evaluate case for Settlement/ADR on 05/29/2012

e. Rule 26(a)(3) Pretrial Disclosures

Plaintiff 06/25/2012

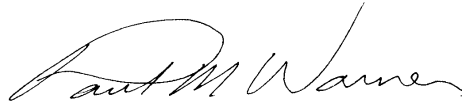
¹ See docket no. 143.

| | | | |
|----|--|-----------|-------------------|
| | Defendant | | <u>07/09/2012</u> |
| f. | Special Attorney Conference on or before | | <u>07/23/2012</u> |
| g. | Final Pretrial Conference | 3:00 p.m. | <u>08/06/2012</u> |
| h. | Five-day jury trial | 8:30 a.m. | <u>08/27/2012</u> |

IT IS SO ORDERED.

DATED this 18th day of November, 2011.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

**ZIONS FIRST NATIONAL BANK, a
National Banking Association, and
ZIONS BANCORPORATION, a Utah
corporation,**

Plaintiffs,

vs.

**VISUAL PERFECTION
CORPORATION, a Washington
corporation, WASHINGTON
NATIONAL FUNDING, a Washington
corporation, RICHARD C. CYR,
KENNETH WAYNE, and INTERNAL
REVENUE SERVICE,**

Defendants.

**UNITED STATES OF AMERICA,
INTERNAL REVENUE SERVICE;**

Counterclaimant,

vs.

**RICHARD C. CYR and VISUAL
PERFECTION CORPORATION, a
Washington corporation,**

Counterclaim Defendants.

**ORDER GRANTING UNITED STATES’
MOTION FOR SUMMARY
JUDGMENT AND REQUEST FOR
DISTRIBUTION OF INTERPLEAD
FUND**

Case No. 2:09-cv-636-SA

Having considered the United States’ Motion for Summary Judgment and Request for

Distribution of Interplead Fund (Doc. 18), and for good cause shown,

IT IS HEREBY ORDERED that the United States' motion (Doc. 18) is **GRANTED** and that summary judgment be entered in favor of the United States.

IT IS FURTHER ORDERED that:

- a. the interplead fund is the property of Richard C. Cyr;
- b. the United States has valid and subsisting federal tax liens which attach to all property and rights to property of Richard C. Cyr, including the interplead fund;
- c. Defendants Visual Perfection Corporation, Washington National Funding, and Kenneth Wayne have no interest in the interplead fund; and
- d. the Clerk of the Court is directed to disburse the entire interplead fund and any accrued interest thereon to the United States (payable to the United States Treasury, Attention: Virginia Cronan Lowe, Trial Attorney, Tax Division, P.O. Box 310, Ben Franklin Station, Washington, D.C. 20044-0310).

Dated this 21st day of November, 2011.

BY THE COURT:

A handwritten signature in blue ink, appearing to read 'Samuel Alba', is written above a horizontal line.

Samuel Alba
United States Magistrate Judge

Holly S. Chamberlain, A10189
2235 South 2200 East
Salt Lake City, Utah 84109
Telephone: (801) 898-1851
Facsimile: (801) 953-1864
chamberlainlaw@gmail.com

Attorney for Plaintiffs/Counterclaim Defendants

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

PLEASANT GROVE DEVELOPMENT
PARTNERS, LLC, a Utah limited liability
company, CLARK CHAMBERLAIN, an
individual, and DOUGLAS
CHAMBERLAIN, an individual,

Plaintiffs,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for AMERICA
WEST BANK, L.C., Bentley Wilson, an
individual, First Priority Capital Group, LLC,
a Utah limited liability company, and DOES
I-X, whose true names are unknown,

Defendants.

Case No. 2:09-CV-00959

**ORDER GRANTING SECOND
STIPULATED MOTION TO
EXTEND TIME**

Honorable Ted Steward

FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for AMERICA
WEST BANK, L.C.,

Counterclaim Plaintiff,

v.

PLEASANT GROVE DEVELOPMENT
PARTNERS, LLC, a Utah limited liability
company; CLARK CHAMBERLAIN, an
individual; and DOUGLAS
CHAMBERLAIN, an individual,

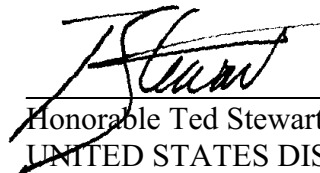
Counterclaim Defendants.

Based upon the Stipulated Motion of the parties,

IT IS HEREBY ORDERED that the Plaintiffs and Counterclaim Defendants shall file an Answer to Defendant and Counterclaim Plaintiff Federal Deposit Insurance Corporation as Receiver for America West Bank, L.C.'s Amended Counterclaim by December 5, 2011.

DATED this 22nd day of November, 2011.

BY THE COURT



Honorable Ted Stewart
UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

| | |
|---|---|
| JEAN MCBRIDE, Plaintiff, v. BANK OF AMERICA, Defendant. | ORDER GRANTING MOTION TO SEAL DOCUMENT Case No. 2:10-cv-00960-DB-BCW Judge Brooke C. Wells |
|---|---|

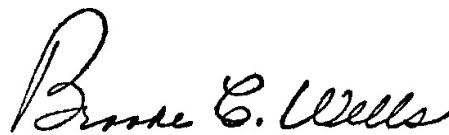
Plaintiff Jean McBride seeks to file a response to Defendant's Motion for Summary Judgment under seal.¹ Plaintiff notes the response contains personal items including information about neighboring properties that should not be available to the general public.

For good cause shown the Court GRANTS Plaintiff's Motion to Seal Document. Plaintiff is directed to file the response in person with the Court and provide 2 courtesy copies for chambers. Plaintiff is also ordered to provide Defendant with a copy of the response and any accompanying documentation.

IT IS SO ORDERED:

DATED this 22nd day of November, 2011.

BY THE COURT:



BROOKE C. WELLS
United States Magistrate Judge

¹Docket no. 43.

Marcie E. Schaap, #4660
ATTORNEY AT LAW, P.C.
1523 E. Spring Lane
Salt Lake City, UT 84117
Telephone: (801) 201-1642
Facsimile: (801) 272-6350
e-mail: marcie.schaap@gmail.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KRISTYNE TRUJILLO, Acting Trustee of
the Lavell J. Burt and Elva D. Burt Living
Trust,

Plaintiff,

v.

THE WESTERN CONFERENCE OF
TEAMSTERS PENSION TRUST; THE
BOARD OF TRUSTEES FOR THE
WESTERN CONFERENCE OF
TEAMSTERS PENSION TRUST, and
DAVID KEITH BURT,

Defendants.

**ORDER OF DISMISSAL WITH
PREJUDICE**

Case No. 2:10-CV-1067-TS

Judge Ted Stewart

THE WESTERN CONFERENCE OF
TEAMSTERS PENSION TRUST; THE
BOARD OF TRUSTEES FOR THE
WESTERN CONFERENCE OF
TEAMSTERS PENSION TRUST,

Counter-Claimants,

v.

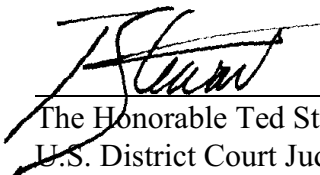
KRISTYNE TRUJILLO, Acting Trustee of
the Lavell J. Burt and Elva D. Burt Living
Trust; and DAVID K. BURT,

Counter-Defendants.

The Court, having been advised in the premises, and good cause appearing therefor, hereby
ORDERS, ADJUDGES, AND DECREES that Plaintiff's Complaint against Defendants
and Counter-Claimants' Complaint against Counter-Defendants are dismissed with prejudice, each
party to bear its own attorneys' fees and costs.

DATED this 22nd day of November, 2011.

BY THE COURT



The Honorable Ted Stewart
U.S. District Court Judge

APPROVED AS TO FORM:

TRUCKER • HUSS

/s/ Clarissa A. Kang Dated: November 21, 2011
Attorney for Defendants
THE WESTERN CONFERENCE OF TEAMSTERS
PENSION TRUST; THE BOARD OF TRUSTEES
FOR THE WESTERN CONFERENCE OF
TEAMSTERS PENSION TRUST
(Signed by Marcie E. Schaap with permission of
Clarissa A. Kang)

PARSONS KINGHORN HARRIS

/s/ Harold L. Reiser Dated: November 21, 2011
Attorney for Defendant and Counter-Defendant
David Keith Burt
(Signed by Marcie E. Schaap with permission of
Harold L. Reiser)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

NOV 22 2011

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

FEDERAL DEPOSIT INSURANCE)
CORPORATION as Receiver for)
AMTRUST BANK,)
Plaintiff,)

Civil No. 2:10-CV-1084 BSJ

vs.)

**ORDER STRIKING MOTION TO
QUASH
(Fed. R. Civ. P. 45)**

1st NATIONAL TITLE)
INSURANCE AGENCY, LLC, a Utah)
limited liability company, and)
WESTCOR LAND TITLE)
INSURANCE COMPANY, a)
California corporation,)
Defendants.)

1ST NATIONAL TITLE)
INSURANCE AGENCY, LLC, a Utah)
limited liability company, and)
WESTCOR LAND TITLE)
INSURANCE COMPANY, a)
California corporation,)
Third-Party Plaintiffs,)

v.)

MAGDALENA LOZANO, FIDELIS)
CAPITAL GROUP, LLC, a revoked)
Nevada limited liability company,)
BRIAN ZIMMERMAN, PAUL HILL,)
RUSSELL BLACK, RICK WELLS,)
PEGGY MCKENZIE, DENNIS)
BERRETT, AND DOES 1-20, persons)
unknown,)

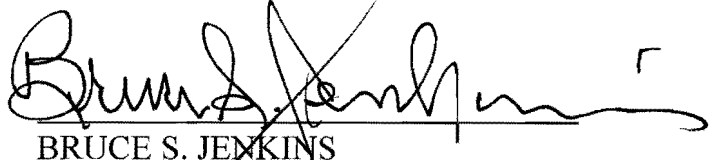
Third-Party Defendants.)

On November 22, 2011, this court received a paper from Third-Party Defendant Magdalena Lozano seeking to quash a deposition subpoena issued in connection with the above-entitled civil action. The subpoena was issued in the United States District Court for the District of *Nevada*, where Ms. Lozano was served, rather than being issued through this court. Rule 45(c)(3) of the Federal Rules of Civil Procedure provides that "the issuing court" may quash its subpoena for good cause shown. To seek such relief, Ms. Lozano should thus file her motion to quash with the federal district court in Las Vegas, Nevada, not this court. Therefore,

IT IS ORDERED that Third-Party Defendant Magdalena Lozano's motion to quash the deposition subpoena issued by counsel in the United States District Court for the District of Nevada is hereby STRICKEN without prejudice to its renewal in that court pursuant to Fed. R. Civ. P. 45(c)(3).

DATED this 22 day of November, 2011.

BY THE COURT:


BRUCE S. JENKINS
United States Senior District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

AS AMERICAN AS DOUGHNUTS, INC.,

Plaintiff,

vs.

MICHAEL J.T. PATTON d.b.a. SPUDS
DONUTS & MORE, *et al.*,

Defendants.

ORDER and
MEMORANDUM DECISION

Case No. 2:10-cv-1138 CW
Consolidated Case No.
2:11-cv-241 CW

Now before the court is a motion for preliminary injunction filed by MP-OTHA in its role as Plaintiff in consolidated case number 2:11-cv-241 CW (Dkt. No. 44). MP-OTHA seeks to enjoin As American as Doughnuts, Inc. (“As American”) and Douglas E. Bagley from using, licensing or inducing others to use the marks SPUDNUTS, SPUDNUT, ORIGINAL SPUDNUT, SPUDNUT DONUTS, and SPUDNUT DONUTS THE GREAT TASTE IS BACK and related marks. In short, MP-OTHA is the owner of the federally registered trademark SPUDNUTS and contends that As American and Mr. Bagley’s use of the above-mentioned marks infringes on the SPUDNUTS mark and must be enjoined. For the reasons listed below, this motion is DENIED.

For the purposes of this motion only, the court will assume that this injunction would preserve the status quo. To obtain such an injunction, the movant must show: “(1) a likelihood of success on the merits; (2) a likelihood that the movant will suffer irreparable harm in the

absence of preliminary relief; (3) that the balance of equities tips in the movant's favor; and (4) that the injunction is in the public interest.” *RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1208 (10th Cir. 2009). Here, none of these factors favors issuing an injunction.

First, MP-OTHA has not convinced the court that it is likely to succeed on the merits. Most saliently, there is a material issue of fact of whether the prior holder of the federally registered SPUDNUTS mark abandoned the mark before he sold it to MP-OTHA. While MP-OTHA argues that it may tack a prior use of the SPUDNUTS mark to defeat abandonment, the merits of this proposition turn on material issues of fact that are heavily disputed and at this stage of the litigation, do not clearly favor one side or the other.

Second, while trademark infringement is an indicator that MP-OTHA might suffer irreparable harm by As American and Mr. Bagley's use, infringement alone is not irreparable harm. *See eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 393-94 (2006) (patent infringement alone does not satisfy irreparable harm element). Here, MP-OTHA has been using the SPUDNUTS mark for less than a year. As American and Mr. Bagley are also relatively new market entrants. MP-OTHA offers no evidence that any retail doughnut seller has been confused that As American or Mr. Bagley are affiliated with MP-OTHA. While MP-OTHA is of the opinion that As American and Mr. Bagley's doughnut mix is inferior for various reasons, MP-OTHA has produced no evidence that this mix has actually made any end consumer of doughnuts averse to trying another doughnut named “spudnut.” There is no evidence now before the court to support a finding that As American and Mr. Bagley's use of the mark has damaged any goodwill associated with MP-OTHA's use of the same mark. Accordingly, this element does not favor an injunction.

On the balance of equities, the court is satisfied that neither MP-OTHA nor the non-movants have a strong case in their favor. Finally, the public interest is generally best advanced by competition, especially when the validity of the trademark is in question. Accordingly, the fourth and last factor militates against issuing this injunction.

CONCLUSION

For the reasons set forth above, MP-OTHA's motion for an injunction (Dkt. No. 44) is DENIED.

SO ORDERED this 22nd day of November, 2011.

BY THE COURT:



Clark Waddoups
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION**

MARIO JUAREZ

Plaintiff,

ORDER OF DISMISSAL

vs.

SUPER SAVER

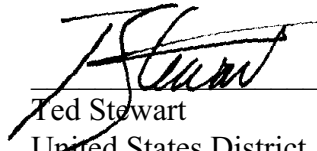
Civil No. 2:10-cv-1180

Defendant,

On October 4, 2011, this Court issued an order requiring Plaintiff to show cause why the above-entitled case should not be dismissed for lack of prosecution. No response to that order has been received.

Wherefore, good cause appearing, the Court hereby ORDERS this case DISMISSED for failure to prosecute.

Dated this 22nd day of November , 2011 .



Ted Stewart
United States District Judge

FILED
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

2011 NOV 21 P 4:12

CENTRAL DIVISION

DISTRICT OF UTAH

GASPARI NUTRITION, INC., a corporation
of the State of New Jersey,

Plaintiff,

v.

CHRIS KUCHIN, an individual, d/b/a CK
INDUSTRIES, E NUTRITION RESEARCH,
LLC, a Utah limited liability company, and
HYUN PARK, an individual,

Defendants.

BY: BRUCE S. JENKINS
~~PROPOSED~~ ORDER GRANTING
STIPULATED MOTION FOR
EXTENSION OF FACT DISCOVERY
DEADLINE

Case No.: 2:10-cv-01226-BSJ

Judge Bruce S. Jenkins

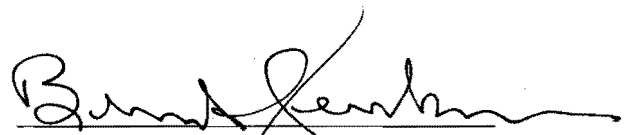
WHEREAS the parties to the above-captioned action (the "Action") have filed a
Stipulated Motion For Extension of Fact Discovery Deadline (the "Stipulated Motion");

Pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure and based upon the
parties' stipulation and for good cause appearing, the Stipulated Motion is HEREBY GRANTED
as follows:

The fact discovery deadline shall be extended from November 18, 2011 to January 20,
2012. The remaining dates set forth in the Scheduling Order shall remain unchanged.

GOOD CAUSE APPEARING, IT IS SO ORDERED.

DATED: 11/21/11


BRUCE S. JENKINS
U.S. DISTRICT COURT JUDGE

UNITED STATES DISTRICT COURT

District of Utah

UNITED STATES OF AMERICA

v.

Victor Manuel Ramirez-Marcial

Judgment in a Criminal Case

(For Revocation of Probation or Supervised Release)

Case No. DUTX2:11CR000178-001-CW

USM No. 17964-081

Carlos A. Garcia

Defendant's Attorney

FILED
U.S. DISTRICT COURT
2011 NOV 22 P 3:21

DISTRICT OF UTAH
BY: DEPUTY CLERK

THE DEFENDANT:

☒ admitted guilt to violation of condition(s) allegation 1 of the term of supervision.

☐ was found in violation of condition(s) _____ after denial of guilt.

The defendant is adjudicated guilty of these violations:

| <u>Violation Number</u> | <u>Nature of Violation</u> | <u>Violation Ended</u> |
|-------------------------|--|------------------------|
| 1 | On or about June 23, 2011, the defendant illegally reentered the United States and was found in Salt Lake County, Utah | 08/05/2011 |

The defendant is sentenced as provided in pages 2 through 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has not violated condition(s) _____ and is discharged as to such violation(s) condition.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec. No.: _____

Defendant's Year of Birth: 1979

City and State of Defendant's Residence:
Mexico

10/19/2011

Date of Imposition of Judgment



Signature of Judge

Hon. Clark Waddoups

District Court Judge

Name and Title of Judge

11/22/2011

Date

DEFENDANT: Victor Manuel Ramirez-Marcial
CASE NUMBER: DUTX2:11CR000178-001-CW

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of :

6 months plus 1 day, to run consecutive to the 6 months imposed in case 2:11-cr-00706-CW for a total of 12 months and 1 day.

☒ The court makes the following recommendations to the Bureau of Prisons:

the court's intent in sentencing the defendant to 6 months plus 1 day was so that the two sentences combined would amount to 12 months and 1 day, giving the defendant the opportunity to qualify for good time.

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
 - ☐ at _____ ☐ a.m. ☐ p.m. on _____
 - ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - ☐ before 2 p.m. on _____
 - ☐ as notified by the United States Marshal.
 - ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

| | | |
|---------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA, | : | 2:11 CR 556 CW |
| Plaintiff, | : | ORDER SETTING STATUS |
| vs. | : | CONFERENCE AND EXCLUDING |
| MICHAEL L. O'DONNELL, | : | TIME FROM SPEEDY TRIAL ACT |
| Defendant. | : | COMPUTATION |
| | | Magistrate Judge David Nuffer |

This matter came before the Court on November 10, 2011 for a status conference. Counsel, Ronald Fujino, appeared for the defendant. Assistant United States Attorney Robert A. Lund appeared for the United States.

The Court heard discussion regarding the status of discovery compliance, and being now fully advised, the Court hereby enters the following ORDER:

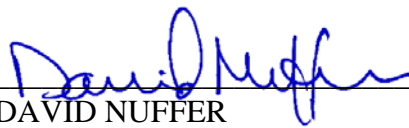
The court will hold a status conference on February 15, 2012 at 10:00 a.m. before Judge David Nuffer in order to set a trial date, a motion cut-off date, and other necessary deadlines.

It is further ORDERED pursuant to 18 U.S.C. § 3161(h)(1)(D) and (7)(A) and (B)(ii) that all time between November 10, 2011 and February 15, 2012, shall be excluded from computation of time under the Speedy Trial Act.

The Court finds that such time is excluded from computation under the terms of the Speedy Trial Act, and finds further that the ends of justice served by the continuance outweigh the best interests of the public and the defendants in a speedy trial. Additionally, the court finds that the nature of the prosecution is unusual and complex to a degree that it would be unreasonable to expect adequate trial preparation within the time limits established by the Speedy Trial Act.

The court makes these findings based on the fact that the defendant recently retained an expert to manage the technical aspects of the discovery management. The expert needs additional time to convert the material into a searchable format material and make other conversions. Thereafter, defense counsel requires additional time to review all of the material. Failure to grant a continuance would preclude effective preparation and due diligence on the part of defense counsel.

DATED this 22nd day of November, 2011.



DAVID NUFFER
United States Magistrate Judge

United States District Court

CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA
v.

ORDER SETTING CONDITIONS OF RELEASE

MARY CARMEN BELTRAN

Case Number: 2:11-CR-951 TS

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed

as directed. The defendant shall next appear at (if blank, to be notified) _____

PLACE

on _____

DATE AND TIME

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- () (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

_____ dollars (\$) _____

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- () (6) The defendant is placed in the custody of:
(Name of person or organization)
(Address)
(City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____
Custodian or Proxy

- (✓)(7) The defendant shall:
- (✓)(a) maintain or actively seek verifiable employment.
 - () (b) maintain or commence an educational program.
 - (✓)(c) abide by the following restrictions on his personal associations, place of abode, or travel:
maintain residence at the address reported to PTS. No change without prior permission of PTS.
 - (✓)(d) avoid all contact with persons, who are considered co-defendant(s), alleged victims or potential witnesses.
 - (✓)(e) report on a regular basis to the supervising officer as directed.
 - () (f) comply with the following curfew:
 - (✓)(g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
 - () (h) refrain from excessive use of alcohol.
 - (✓)(i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner, nor be in the presence of a person using or possessing controlled substance(s).
 - () (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
 - () (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
 - () (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
 - () (m) execute a bail bond with solvent sureties in the amount of \$
 - () (n) return to custody each (week)day as of _____ o'clock after being released each (week)day as of _____ o'clock for employment, schooling or the following limited purpose(s):
 - () (o) surrender any passport to
 - (✓)(p) obtain no passport.
 - (✓)(q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment, if deemed advisable by supervising officer.
 - () (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
 - () (s) submit to an electronic monitoring program as directed by the supervising officer.
 - (✓)(t) no travel outside the State of California (central district) without prior permission of PTS, with exception for travel to the State of Utah for court purposes. No travel outside the United States without prior permission of the Court.

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

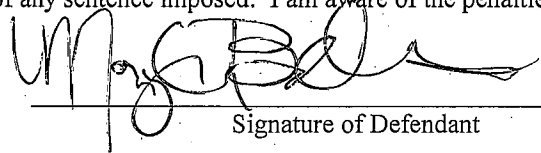
If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant

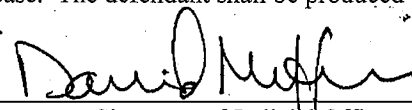
Address

City and State

Telephone

Directions to the United States Marshal

- (☒) The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: November 22, 2011

Signature of Judicial Officer

Chief Magistrate Judge David Nuffer

Name and Title of Judicial Officer

United States District Court

CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA

V.

ORDER SETTING CONDITIONS OF RELEASE

MONICA GODOY MAGALLON

Case Number: 2:11-CR-951 TS

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed
as directed. The defendant shall next appear at (if blank, to be notified)

PLACE_____
on_____
DATE AND TIME

Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- () (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

dollars (\$)

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- () (6) The defendant is placed in the custody of:
(Name of person or organization)
(Address)
(City and state) (Tel.No.)

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____
Custodian or Proxy

(✓)(7) The defendant shall:

- (✓)(a) maintain or actively seek verifiable employment.
- () (b) maintain or commence an educational program.
- (✓)(c) abide by the following restrictions on his personal associations, place of abode, or travel:
maintain residence at the address reported to PTS. No change without prior permission of PTS.
- (✓)(d) avoid all contact with persons, who are considered co-defendant(s), alleged victims or potential witnesses.
- (✓)(e) report on a regular basis to the supervising officer as directed.
- () (f) comply with the following curfew:
- (✓)(g) refrain from possessing a firearm, destructive device, or other dangerous weapon.
- () (h) refrain from excessive use of alcohol.
- (✓)(i) refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. §802 unless prescribed by a licensed medical practitioner, nor be in the presence of a person using or possessing controlled substance(s).
- () (j) undergo medical or psychiatric treatment and/or remain in an institution, as follows:
- () (k) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property
- () (l) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
- () (m) execute a bail bond with solvent sureties in the amount of \$
- () (n) return to custody each (week)day as of _____ o'clock after being released each (week)day as of _____ o'clock for employment, schooling or the following limited purpose(s):
- () (o) surrender any passport to
- (✓)(p) obtain no passport.
- (✓)(q) the defendant will submit to drug/alcohol testing as directed by the pretrial office. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment, if deemed advisable by supervising officer.
- () (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the supervising officer.
- () (s) submit to an electronic monitoring program as directed by the supervising officer.
- (✓)(t) no travel outside the State of California (central district) without prior permission of PTS, with exception for travel to State of Utah for court purposes. No travel outside the United States without prior permission of the Court.

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

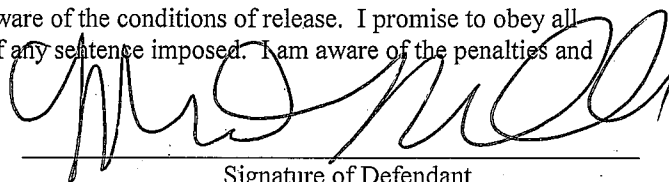
If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both.
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in additions to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant

18005 S Seal

Address

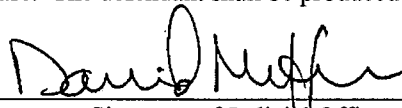
City and State

Telephone

Directions to the United States Marshal

- (☒) The defendant is ORDERED released after processing.
- () The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: November 22, 2011



Signature of Judicial Officer

Chief Magistrate Judge David Nuffer

Name and Title of Judicial Officer

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION**

BIDSAUCE

Plaintiff,

ORDER OF DISMISSAL

vs.

**SPECTRUM MERCHANT
PROCESSING, WELLS FARGO
BANK NA, FIRST DATA**

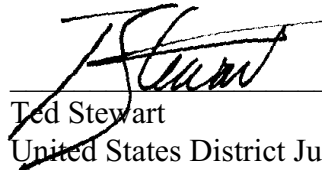
Civil No. 2:11-cv-11

Defendant,

On October 4, 2011, this Court issued an order requiring counsel for Plaintiff to show cause why the above-entitled case should not be dismissed for lack of prosecution. No response to that order has been received.

Wherefore, good cause appearing, the Court hereby ORDERS this case DISMISSED for failure to prosecute.

Dated this 22nd day of November , 2011 .



Ted Stewart
United States District Judge

FILED
U.S. DISTRICT COURT

2011 NOV 21 P 4:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Michele Anderson-West (9249)
ANDERSON-WEST, PLLC
171 East 300 South
Salt Lake City, Utah 84111
P: 801.285.9141
F: 801.285.9149
michele@anderson-west.net

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

RON AND MELISSA CHAVEZ,

Plaintiffs,

v.

BAC HOME LOANS SERVICING,
LP,

Defendant.

ORDER DENYING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

Case No. 2:11-cv-00056BSJ
Honorable Bruce Jenkins

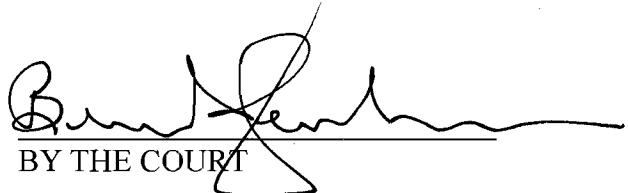
This matter came before the Court on the 27th day of October, 2011. Plaintiffs' counsel, Michele Anderson-West was present. Defendant's counsel, Michael D. Black and R. Jeremy Adamson were present.

The Court, after hearing argument from the parties, reviewing the file, being fully advised and for good cause showing, hereby

ORDERS, ADJUDGES AND DECREES:

Defendant's Motion for Summary Judgment is DENIED.

Dated this 21st day of November, 2011.


BY THE COURT

Approved as to form:

/s/ Michael D. Black

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

SUNDESA, LLC, a Utah limited liability
company, and RUNWAY BLUE, LLC, a
Utah limited liability company,

Plaintiff,

vs.

PERFECTSHAKERS.COM, a Canadian
limited liability company,

Defendant.

**SCHEDULING ORDER AND
ORDER VACATING HEARING**

Case No. 2:11-cv-00165-BCW
Judge Clark Waddoups

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge received the Attorneys' Planning Report filed by counsel (docket #30). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for December 7, 2011, at 11:30 AM in Room 477 is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

| 1. | PRELIMINARY MATTERS | DATE |
|-----------|--|-------------------------|
| | Nature of claims and any affirmative defenses: | |
| a. | Was Rule 26(f)(1) Conference held? | Yes 10/17/11 & 11/01/11 |
| b. | Has Attorney Planning Meeting Form been submitted? | Yes 11/07/11 |

| | | | |
|-----------|--|----|---------------|
| c. | Was 26(a)(1) initial disclosure completed? | No | 12/05/11 |
| 2. | DISCOVERY LIMITATIONS | | NUMBER |
| a. | Maximum Number of Depositions by Plaintiff(s) | | 10 |
| b. | Maximum Number of Depositions by Defendant(s) | | 10 |
| c. | Maximum Number of Hours for Each Deposition (unless extended by agreement of parties) | | 7 |
| d. | Maximum Interrogatories by any Party to any Party | | 35 |
| e. | Maximum requests for admissions by any Party to any Party | | 35 |
| f. | Maximum requests for production by any Party to any Party | | As needed |
| g. | Discovery of electronically stored information should be handled as follows: Electronically stored information can be produced in electronic format or printed and produced in paper copies, at the election of the party making the production. If produced in electronic format, a searchable PDF format shall be acceptable. Upon request, the producing party shall produce electronically store information in native format. With respect to the production of any information either electronically stored or otherwise, the party producing the information, either in electronic format, PDF or in paper copies, shall pay for the preparation and reproduction costs of doing so. | | |
| h. | Claim of privilege or protection as trial preparation material asserted after production shall be handled as follows: <i>Include provisions of agreement to obtain the benefit of Fed. R. Evid. 502(d).</i> | | |
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES | | DATE |
| a. | Last Day to File Motion to Amend Pleadings | | 06/18/12 |
| b. | Last Day to File Motion to Add Parties | | 06/18/12 |
| 4. | RULE 26(a)(2) REPORTS FROM EXPERTS | | DATE |
| a. | Plaintiff | | 04/30/12 |

| | | | | |
|-----------|----|--|---------------|-----------------------------|
| | b. | Defendant | | 04/30/12 |
| | c. | Counter reports | | 05/28/12 |
| 5. | | OTHER DEADLINES | | DATE |
| | a. | Discovery to be completed by: | | |
| | | Fact discovery | | 07/30/12 |
| | | Expert discovery | | 07/30/12 |
| | b. | (optional) Final date for supplementation of disclosures and discovery under Rule 26 (e) | | 08/31/12 |
| | c. | Deadline for filing dispositive or potentially dispositive motions | | 09/28/12 |
| 6. | | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | | DATE |
| | a. | Referral to Court-Annexed Mediation: | <u>Yes/No</u> | |
| | b. | Referral to Court-Annexed Arbitration | <u>Yes/No</u> | |
| | c. | Evaluate case for Settlement/ADR on | | 04/02/12 |
| | d. | Settlement probability: | Fair | |
| 7. | | TRIAL AND PREPARATION FOR TRIAL | TIME | DATE |
| | a. | Rule 26(a)(3) Pretrial Disclosures | | |
| | | Plaintiff | | 03/15/13 |
| | | Defendant | | 03/29/13 |
| | b. | Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule) | | 45 days prior to trial date |
| | c. | Special Attorney Conference on or before | | 04/12/13 |

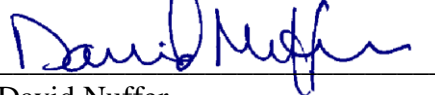
| | | | |
|-----|------------------------------------|---------------|------------------------|
| d. | Settlement Conference on or before | | 04/12/13 |
| e. | Final Pretrial Conference | 2:30 p.m. | 04/29/13 |
| f. | Trial | <u>Length</u> | |
| i. | Bench Trial | <u># days</u> | ____:____ .m. 00/00/00 |
| ii. | Jury Trial | 5 days | 8:30 a.m. 05/13/13 |

8. OTHER MATTERS

Counsel should contact chambers staff of the judge presiding in the case regarding *Daubert* and *Markman* motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions *in Limine* should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under *Daubert* must be raised by written motion before the final pre-trial conference.

Dated November 21, 2011.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately assigned or referred to that Magistrate Judge.

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

FILED
U.S. DISTRICT COURT

2011 NOV 21 P 4:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

ANDREW F. PETERSON (10074)
Assistant Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
160 East 300 South, 6th Floor
PO BOX 140854
Salt Lake City, Utah 84114-0854
Telephone: (801) 366-0180
andrewpeterson@utah.gov
Respondent's counsel

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

CARL STANLEY FLEMING,

Petitioner,

v.

ALFRED BIGELOW,

Respondent.

Case No. **2:11cv310**

ORDER ENLARGING
TIME TO RESPOND

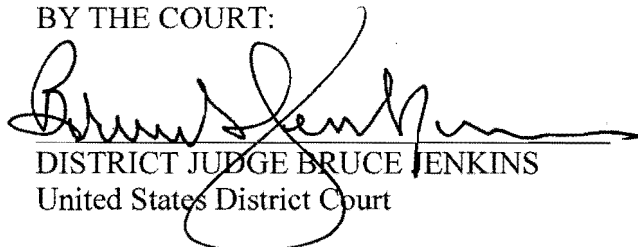
Judge Bruce Jenkins

Based upon Respondent's motion for enlargement of time, and good cause appearing
therefore, **THE COURT HEREBY ORDERS THAT:**

Respondent shall respond to the Petition on or before 21 December 2011.

DATED 21st November 2011.

BY THE COURT:


DISTRICT JUDGE BRUCE JENKINS
United States District Court

CERTIFICATE OF SERVICE

I hereby certify that on 18 November 2011, I electronically filed the foregoing (PROPOSED) ORDER ENLARGING TIME TO RESPOND, with the Clerk of Court using the CM/ECF system and also mailed a copy to the following non-CM/ECF participants:

Carl Stanley Fleming #130545
Utah State Prison
PO Box 250
Draper UT 84020

s/ Michelle Petersen

Prepared and submitted by:

Steven T. Waterman (4164)

Nathan S. Seim (12654)

DORSEY & WHITNEY LLP

136 South Main Street, Suite 1000

Salt Lake City, Utah 84101

Telephone: (801) 933-7360

Facsimile: (801) 933-7373

Email: waterman.steven@dorsey.com

seim.nathan@dorsey.com

Attorneys for Plaintiff David E. Anderson

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

DAVID E. ANDERSON, an individual,

Plaintiff,

vs.

LIFE INSURANCE COMPANY OF NORTH
AMERICA,

Defendant.

SCHEDULING ORDER

Civil No. 2:11-cv-00347-CW

Judge: Clark Waddoups

Pursuant to Fed.R. Civ P. 16(b), the Court received the Attorneys' Planning Report filed by counsel (docket #17) and an initial pretrial hearing was held on 08/24/2011 before U.S. Magistrate Judge David Nuffer. Representing plaintiff was Nathan Seim, Esq. and Steve Waterman, Esq. Mr. Jim Barnett, Esq. appeared on behalf of defendant. The following matters are scheduled, the time and deadlines for which may not be modified without the approval of the Court and on a showing of good cause:

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. **PRELIMINARY MATTERS.** **DATE**
 - a. Attorney Planning Report submitted: 08/11/2011
 - b. Rule 26(a)(1) initial disclosures completed by: 08/22/2011
2. **DISCOVERY LIMITATIONS.**

In the event that there is a dispute as to the completeness of the administrative record and/or the necessity for or the permissibility of discovery, a party may bring a motion with the Court within 45 days of the production of the initial disclosures (which shall include the entire administrative record) to have such issues determined by the Court. The motion shall include such discovery as is proposed and a memorandum supporting the proposed discovery.
3. **AMENDMENT OF PLEADINGS.** **DATE**
 - a. Deadline for both Parties to amend pleadings or join parties: 11/23/2011
4. **EXPERT REPORTS.**
 - a. Deadline for both Parties to submit expert reports: 00/00/0000
 - b. Counter reports due from both Parties: 00/00/0000
5. **OTHER DEADLINES.**
 - a. All fact and expert discovery for both Parties completed by: 00/00/0000
 - b. Deadline for supplementation of disclosures and discovery: 00/00/0000
 - c. Deadline for filing dispositive or potentially dispositive motions: 03/16/2012
6. **SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION.**
 - a. Referral to Court-Annexed Mediation: Yes/No.
 - b. Referral to Court-Annexed Arbitration: Yes/No.
 - c. Evaluate case for Settlement/ADR on 06/21/2012
 - d. Settlement probability: Fair.
7. **TRIAL AND PREPARATION FOR TRIAL** **TIME** **DATE**

These dates are set conditionally, to reserve space on the judge's calendar in the event that an evidentiary hearing is needed.

 - a. Rule 26(a)(3) Pretrial Disclosures

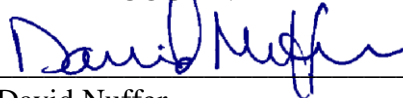
| | | | |
|-----------|--|---------------|----------------------|
| Plaintiff | | | 06/22/2012 |
| Defendant | | | 07/06/2012 |
| b. | Objections to Rule 26(a)(3) Disclosures (if different than 14 days in Rule) | | 00/00/0000 |
| c. | Special Attorney Conference on or before | | 07/20/2012 |
| d. | Settlement Conference on or before | | 07/20/2012 |
| e. | Final Pretrial Conference | 2:30 p.m. | 08/06/2012 |
| f. | Trial | <u>Length</u> | |
| | Bench Trial | <u>2 days</u> | 8:30 a.m. 08/20/2012 |

8. OTHER MATTERS.

Counsel should contact chambers staff of the judge presiding in the case regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine, should be filed in advance of the final pretrial conference. Unless otherwise directed by the Court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pretrial conference.

Dated November 21, 2011.

BY THE COURT:



David Nuffer

U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately assigned or referred to that Magistrate Judge.

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and

disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

Approved as to form and content:

HOLLAND & HART LLP

Jack M. Englert, Jr.
Jack M. Englert, Jr.
Attorney for Defendant
(signed by filing attorney with permission)

FILED
U.S. DISTRICT COURT

2011 NOV 21 P 4:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Amy F. Sorenson (8947)
Emily Jackson (11678)
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800
Email: asorenson@swlaw.com
ejackson@swlaw.com

*Attorneys for Defendants SunTrust
Mortgage, Inc. and MERS*

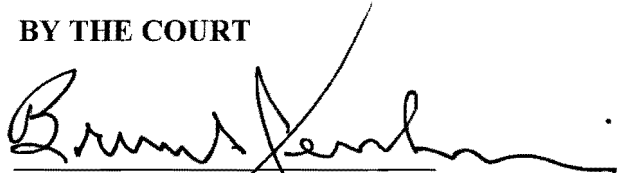
| IN THE UNITED STATES DISTRICT COURT | |
|--|---|
| DISTRICT OF UTAH, CENTRAL DIVISION | |
| ROBERT W. MATHEWSON and MICHELLE MATHEWSON, Plaintiffs, v. J. SCOTT LUNDBERG, as Trustee, SUNTRUST MORTGAGE, INC., and MERS, Defendants. | PROPOSED ORDER FOR DISMISSAL WITH PREJUDICE Case No. 2:11-cv-00365 Honorable Bruce S. Jenkins |

Based upon the Joint Motion and Stipulation for an Order of Dismissal With Prejudice,
and good cause appearing,

IT IS HEREBY ORDERED that the Plaintiffs' complaint is dismissed as against
Defendants SunTrust Mortgage, Inc. and MERS, with prejudice, and with each party to bear his,
its or their respective attorneys' fees and costs.

DATED this 21st day of November 2011.

BY THE COURT



Honorable Bruce S. Jenkins
U.S. District Court Judge

Approved as to form:

/s/ Walter T. Keane _____
Walter T. Keane
WALTER T. KEANE, P.C.
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of November 2011, I caused a true and correct copy of the foregoing **ORDER FOR DISMISSAL WITH PREJUDICE** to be sent to be sent via the Court's CM/ECF system to the following:

Walter T. Keane
WALTER T. KEANE, P.C.
2825 Cottonwood Pkwy, Suite 500
Salt Lake City, Utah 84121
Attorney for Plaintiffs

Richard J. Gunnerson
LUNDBERG & ASSOCIATES
3269 S. Main Street, Suite 100
Salt Lake City, Utah 84115
Attorney for Defendant J. Scott Lundberg

/s/ Amy F. Sorenson

Walter T. Keane – 10333
WALTER T. KEANE, P.C.
2825 Cottonwood Pkwy., Suite 500
Salt Lake City, Utah 84121
Telephone: (801) 990-4422
Facsimile: (801) 606-7533
Email: walter@walterTkeane.com
For Mathewson

FILED
U.S. DISTRICT COURT

2011 NOV 21 P 4:12

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

**ROBERT W. MATHEWSON AND,
MICHELLE MATHESON,**
Plaintiffs,
-vs-
**J. SCOTT LUNDBERG, as trustee,
SUNTRUST MORTGAGE, INC., and
MERS,**
Defendants.

ORDER

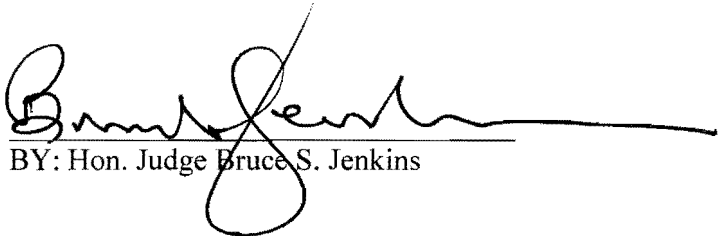
Case No: 2:11-cv-365

Judge Jenkins

Pursuant to the voluntary dismissal by plaintiffs it is hereby order that this matter is
dismissed with prejudice.

DATED this 21st day of Nov. 2011.

UNITED STATES DISTRICT COURT


BY: Hon. Judge Bruce S. Jenkins

Order Prepared By:
David M. Kono (8770)
Daniel K. Brough (10283)
BENNETT TUELLER JOHNSON & DEERE
3165 E. Millrock Drive, Suite 500
Salt Lake City, Utah 84121
Telephone: (801) 438-2000
Facsimile: (801) 438-2050
Email: dkono@btjd.com, dbrough@btjd.com
Attorneys for Plaintiff Heather Hunt

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

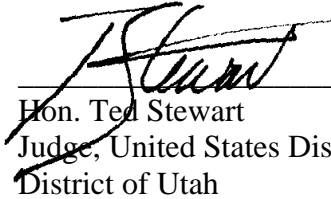
| | | |
|---|----|----------------------------------|
| | *) | |
| HEATHER HUNT, an individual, |) | |
| |) | ORDER GRANTING STIPULATED |
| Plaintiff, |) | MOTION TO DISMISS WITHOUT |
| |) | PREJUDICE |
| v. |) | |
| |) | |
| UNITED HEALTHCARE SERVICES, INC., |) | Civil No. 2:11-cv-00445-TS |
| a Utah corporation; UNITED BEHAVIORAL |) | |
| HEALTH, INC., a California corporation; and |) | Judge Ted Stewart |
| JOHN DOES 1–10; |) | |
| |) | |
| Defendants. |) | |
| | *) | |

This matter came before the Court on the Stipulated Motion to Dismiss Without Prejudice (the “Stipulated Motion”) filed by Plaintiff Heather Hunt (“Hunt”), with the stipulation of Defendants United Healthcare Services, Inc. and United Behavioral Health, Inc. (collectively, “Defendants”). The Court has reviewed the Stipulated Motion. Good cause appearing therefrom, the Court hereby ORDERS as follows:

The Stipulated Motion is hereby GRANTED. Hunt's Second and Third Claims for Relief, as set forth in Hunt's Amended Complaint filed with the Court on May 24, 2011, are hereby dismissed *without prejudice*. This Order shall in no way impact or affect Hunt's First Claim for Relief, which remains intact, nor her ability to amend her complaint to reassert any claims dismissed without prejudice or any other claims supported by facts and law, consistent with the scheduling order in this case and applicable rules.

DATED this 22nd day of November 2011.

BY THE COURT:



Hon. Ted Stewart
Judge, United States District Court
District of Utah

FILED
U.S. DISTRICT COURT

2011 NOV 22 P 2:17

UNITED STATES DISTRICT COURT DISTRICT OF UTAH
DISTRICT OF UTAH, CENTRAL DIVISION

BY: DEPUTY CLERK

ZOObUH, INC., a Utah Corporation

Plaintiff,

vs.

BETTER BROADCASTING, LLC., a Utah
limited liability company; IONO
INTERACTIVE, a company doing business in
Utah; DOES 1-40

Defendants.

**ORDER RE: MOTION FOR
ALTERNATIVE SERVICE**

Case No.: 2:11cv00516-DB

Judge Dee Benson

This matter came before the Court on Plaintiff's Motion for Alternative Service pursuant to Rule 4 of the Federal Rules of Civil Procedure, Plaintiff requested that this Court issue an Order allowing Plaintiff to effectuate substitute service of the Summons and Complaint on Defendants.

The Court, having reviewed the Motion, Supporting Memoranda, and exhibits thereto, finds that sufficient, albeit unsuccessful, efforts have been made to accomplish service on Defendants. The Court further finds it reasonable and appropriate to allow the requested substitute service of process.

Having so found, the Court orders that service upon Defendants may be accomplished, and will be complete upon, the following alternative designated by the initial of the Court:

1. Plaintiff shall serve by mail to Better Broadcasting, LLC and its Registered Agent Iono, at 363 No. University Ave., Suite 110, Provo, Utah 84601.

Upon providing evidence to the Court of having complied with the foregoing requirements, Plaintiff may proceed with the above-captioned action.

SO ORDERED this 21st day of Nov., 2011.

BY THE COURT



Judge Dee Benson

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

| | |
|---|---|
| DEBORAH RODRIGUEZ, Plaintiff, v. THE BOEING COMPANY; THE BOEING COMPANY MASTER WELFARE PLAN; and AETNA LIFE INSURANCE COMPANY, Defendant. | SCHEDULING ORDER Case No. 2:11-cv-00536-BCW Magistrate Judge Brooke C. Wells |
|---|---|

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge received the Attorneys' Planning Report filed by counsel (docket #20). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court.

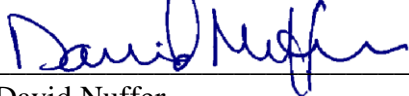
- | | | |
|-----------|--|---------------|
| 1. | PRELIMINARY MATTERS | DATE |
| | Nature of claims and any affirmative defenses: | |
| a. | Was Rule 26(f)(1) Conference held? | 10/18/2011 |
| b. | Has Attorney Planning Meeting Form been submitted? | |
| c. | Was 26(a)(1) initial disclosure completed? | 12/06/2011 |
| 2. | DISCOVERY LIMITATIONS | NUMBER |
| a. | (ERISA) In the event there is a dispute as to the completeness of the administrative record and/or the necessity for or permissibility of discovery, a party may bring a motion with the court within 45 days of the production of initial disclosures (which shall include the entire administrative record) to have such issues determined by the court. | |

| | | |
|-----------|--|----------------------|
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES¹ | DATE |
| a. | Last Day to File Motion to Amend Pleadings | Plaintiff 01/13/2012 |
| | | Defendant 01/27/2012 |
| b. | Last Day to File Motion to Add Parties | Plaintiff 01/13/2012 |
| | | Defendant 01/27/2012 |
| 4. | RULE 26(a)(2) REPORTS FROM EXPERTS² | DATE |
| a. | Plaintiff | <u>00/00/00</u> |
| b. | Defendant | <u>00/00/00</u> |
| c. | Counter reports | <u>00/00/00</u> |
| 5. | OTHER DEADLINES | DATE |
| a. | Discovery to be completed by: | |
| | Fact discovery | <u>00/00/00</u> |
| | Expert discovery | <u>00/00/00</u> |
| b. | (optional) Final date for supplementation of disclosures and discovery under Rule 26 (e) | <u>00/00/00</u> |
| c. | Deadline for filing dispositive or potentially dispositive motions | 05/09/2012 |

Given that ERISA governs the disposition of this case, trial should be unnecessary for the final disposition of this case. In the event that either party comes to believe that a trial is needed, either party may bring a motion within 30 days after the ruling on any dispositive motions or within 30 days after any discovery cutoff, whichever is longer, requesting a trial and pretrial conference from the Court.

Dated November 21, 2011.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

² A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

Jeffery D. Eisenberg (4029)
Jeffrey R. Oritt (2478)
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Facsimile: (801) 350-0065
Email: jeisenberg@braytonlaw.com
Email: joritt@braytonlaw.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

CATHERINE LICARI and VINCENT
LICARI,

Plaintiffs,

vs.

BEST WESTERN INTERNATIONAL, INC.,
a foreign corporation; PARADISE
MANAGEMENT, INC., a Utah corporation;
and DON W. FULLMER dba PARADISE
INN,

Defendants.

**SCHEDULING ORDER AND ORDER
VACATING HEARING**

Case No: 2:11-CV-00603-TS
District Judge: Ted Stewart

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #27). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for December 7, 2011, at 10:30 a. m. is VACATED.

| | |
|---|---|
| 1. PRELIMINARY MATTERS | <u>DATE</u> |
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>9/12/11,</u> <u>9/20/11,</u> <u>11/11/11</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>11/11/11</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>11/21/11</u> |
| 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
| a. Maximum Number of Depositions by Plaintiff(s) | <u>20</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>15</u> |
| c. Maximum Number of Hours for Each Deposition (unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>40</u> |
| e. Maximum requests for admissions by any Party to any Party | <u>30</u> |
| f. Maximum requests for production by any Party to any Party | <u>No Limit</u> |
| | <u>DATE</u> |
| 3. AMENDMENT OF PLEADINGS/ADDING PARTIES² | |
| a. Last Day to File Motion to Amend Pleadings | <u>2/17/12</u> |
| b. Last Day to File Motion to Add Parties | <u>2/17/12</u> |
| 4. RULE 26(a)(2) REPORTS FROM EXPERTS³ | |
| a. Plaintiff | <u>6/15/12</u> |
| b. Defendant | <u>6/15/12</u> |

c. Counter reports 7/20/12

5. OTHER DEADLINES

a. Discovery to be completed by:
Fact discovery 5/31/12
Expert discovery 8/31/12
b. Deadline for filing dispositive or potentially dispositive motions 9/28/12

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

a. Referral to Court-Annexed Mediation No
b. Referral to Court-Annexed Arbitration No
c. Evaluate case for Settlement/ADR on 5/31/12
d. Settlement probability: Good

7. TRIAL AND PREPARATION FOR TRIAL:

a. Rule 26(a)(3) Pretrial Disclosures⁴
Plaintiff **01/11/13**
Defendant **01/25/13**
b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

DATE

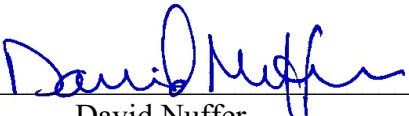
c. Special Attorney Conference⁵ on or before **02/08/13**
d. Settlement Conference⁶ on or before 02/08/13
e. Final Pretrial Conference 2:30 p.m. 02/25/13
f. Trial Length Time Date
i. Bench Trial
ii. Jury Trial 7 days 8:30 a.m. 03/11/13

8. OTHER MATTERS:

Counsel should contact chambers staff of the judge presiding in the case regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Signed: _November 21, 2011

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately assigned or referred to that Magistrate Judge.
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

Richard F. Ensor (10877)
Melinda A. Morgan (8392)
Michael C. Barnhill (12439)
VANTUS LAW GROUP, P.C.
3165 East Millrock Drive, Suite 160
Salt Lake City, Utah 84121
Telephone: (801) 833-0506
Facsimile: (801) 931-2500

Attorneys for Plaintiff Tetra Financial Group, L.L.C.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

| | |
|---|--|
| TETRA FINANCIAL GROUP, L.L.C., a Utah limited liability company, Plaintiff, v. WORLDWIDE PRINTING AND DISTRIBUTION, INC., an Oklahoma corporation, and JAMES R. MOORE, an individual. Defendants. | SCHEDULING ORDER Case No. 2:11-cv-00778-TS Judge: Ted Stewart |
|---|--|

Pursuant to Fed. R. Civ. P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel (docket #18). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

| 1. | PRELIMINARY MATTERS | DATE |
|-----------|--|-------------|
| a. | Was Rule 26(f)(1) Conference held? | 11/3/11 |
| b. | Has Attorney Planning Meeting Form been submitted? | 11/9/11 |
| c. | Rule 26(a)(1) initial disclosures are due: | 12/1/11 |

| | | |
|-----------|--|---------------|
| 2. | DISCOVERY LIMITATIONS | NUMBER |
| a. | Maximum Number of Depositions by Plaintiff | 10 |
| b. | Maximum Number of Depositions by Defendants collectively | 10 |
| c. | Maximum Number of Hours for Each Deposition (unless extended by agreement of parties) | 7 |
| d. | Maximum Number of Interrogatories from Plaintiff | 25 |
| e. | Maximum Number of Interrogatories from Defendants collectively | 25 |
| f. | Maximum requests for admissions by any Party to any Party | Per the rules |
| g. | Maximum requests for production by any Party to any Party | Per the rules |
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIES¹ | DATE |
| a. | Last Day to File Motion to Amend Pleadings | 2/15/12 |
| b. | Last Day to File Motion to Join Additional Parties | 2/15/12 |
| 4. | RULE 26(a)(2) DESIGNATIONS AND REPORTS FROM EXPERTS | DATE |
| a. | Plaintiff: (on issues on which it bears the burden of proof at trial) | 7/13/12 |
| b. | Defendants: (on issues on which they bear the burden of proof at trial) | 7/13/12 |
| c. | Counter reports | 8/10/12 |
| 5. | OTHER DEADLINES | DATE |
| a. | Discovery to be completed by: | |
| | Fact discovery | 6/15/12 |
| | Expert discovery | 9/7/12 |
| b. | Final date for supplementation of disclosures | 30 days |

¹ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

| | | |
|-----------|--|----------------------|
| | and discovery under Rule 26 (e) | before trial |
| c. | Deadline for filing dispositive or potentially dispositive motions and Daubert motions | 10/12/12 |
| 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | DATE |
| a. | Referral to Court-Annexed Mediation: | Yes |
| b. | Referral to Court-Annexed Arbitration | No |
| c. | Evaluate case for Settlement/ADR on | 9/14/12 |
| d. | Settlement probability: | Fair |
| 7. | TRIAL AND PREPARATION FOR TRIAL² | TIME |
| a. | Rule 26(a)(3) Pretrial Disclosures | |
| | Plaintiff | 01/25/2013 |
| | Defendants | 02/08/2013 |
| b. | Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule) | per the Rules |
| c. | Special Attorney Conferences ³ on or before | 02/22/2013 |
| d. | Settlement Conference ⁴ on or before | 02/22/2013 |
| e. | Final Pretrial Conference | 2:30 p.m. 03/11/2013 |

² Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

³ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁴ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

| | | | | |
|-----|-------------|--------|-----------|------------|
| f. | Trial | Length | | |
| i. | Bench Trial | 5 days | 8:30 a.m. | 03/25/2013 |
| ii. | Jury Trial | 5 days | 8:30 a.m. | 03/25/2013 |

The parties currently have a motion pending on the validity of Defendants' jury demand; however, whether it is a bench or jury trial, the parties anticipate 5 days.

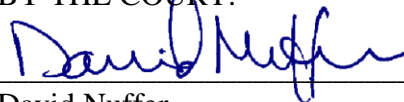
8. OTHER MATTERS

The parties shall exchange all electronic document, and specifically emails, as: (1) single-page TIFF images with Summation load files; (2) as separate PDFs for each document or email with all attendant attachments to such document included in the same PDF; (3) in such electronic document's native format; or (4) in hardcopy form. The producing party shall have the right to select which of the four above-identified options it will use to produce emails or electronic documents but will discuss the issue first, and attempt to work with, the requesting party. If or when other issues arise the parties shall negotiate in good faith for production in any additional form. If the parties cannot reach an agreement on such issues, either party may make an appropriate motion to this Court.

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated November 21, 2011.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the following:

Brandon J. Mark
bmark@parsonsbehle.com
Joseph M. Stultz
jstultz@parsonsbehle.com
PARSONS BEHLE & Latimer
Attorneys for Defendants

/s/Melinda A. Morgan

1.1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

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*Counsel for Tennessee Valley
Authority*
(Admitted Pro hac vice)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

In re:

IN RE C.W. MINING COMPANY, doing
business as Co-Op Mining Company,

Debtor.

Case No. 2:11-CV-840 TS (consolidated
appeals)

Adv. Nos.

11-08001, 09-2047, 09-2248, 09-2375, 10-2739,
10-2755, 10-2756, 10-2764, 10-2765, 10-2766,
10- 2767, 10-2768, 10-2769, 10-2770, 10-2771,
10-2772, 10-2773, 10- 2774, 10-2775, 10-2776,
10-2777, 10-2778, 10-2779, 10-2780, 10- 2781,
10-2782, 10-2783, 10-2785, 10-2787, 10-2789,
10-2791, 10- 2810, 10-2816, 10-2818, 10-2819,
10-2820, 10-2853, 10-2855, 10-2865

KENNETH A. RUSHTON, Trustee,

Plaintiff-Appellant,

v.

Bankr. No. 08-20105

Chapter 7

STANDARD INDUSTRIES, INC.; ABM, INC.; FIDELITY FUNDING COMPANY; SECURITY FUNDING, INC.; WORLD ENTERPRISES, a Utah corporation; WORLD ENTERPRISES, a Nevada corporation; UTAHAMERICAN ENERGY, INC.; C.O.P. COAL DEVELOPMENT COMPANY; HIAWATHA COAL COMPANY, INC.; ANR, INC.; PAUL KINGSTON, an individual; JOSEPH O. KINGSTON, an individual; CHARLES REYNOLDS, an individual; JOHN DAVID KINGSTON, JR., an individual; RAILCO, INC.; A-FAB ENGINEERING, INC.; LATTER DAY CHURCH OF CHRIST, also known as Latter Day Church of Jesus Christ; INTERMOUNTAIN POWER AGENCY; COMMONWEALTH COAL SERVICES, INC.; NEVADA POWER COMPANY; TENNESSEE VALLEY AUTHORITY; ATTCO TRUCKING COMPANY, INC., doing business a CTC Trucking, CTC Trucking LLC; MOUNTAIN COIN MACHINE DISTRIBUTORS; GOLDEN WEST INDUSTRIES, INC.; NINTH STREET DEVELOPMENT, LLC; NINTH STREET, INC.; RACHEL YOUNG; JAMES YOUNG; JESSICA YOUNG; CARL E. KINGSTON, as Trustee under Deed of Trust; COALT, INC.; N.W.R. LIMITED PARTNERSHIP; N.U.R., INC.; FOUR CORNERS PRECISION MFG. CO.; D.U. COMPANY, INC.; SMC ELECTRICAL PRODUCTS, INC.; BECKER MINING AMERICA, INC.; L.A. MILLER; GRAYMONT WESTERN US, INC.; AMERICA WEST MARKETING, INC.; SECURITY FUNDING COMPANY; NATIONAL BUSINESS MANAGEMENT, INC.; doing business as NBM; RUTH BROWN, doing business as NBM; HOUSE OF PUMPS, INC.; and TRIMAC TRANSPORTATION CENTRAL, INC.,

Defendant-Appellees.

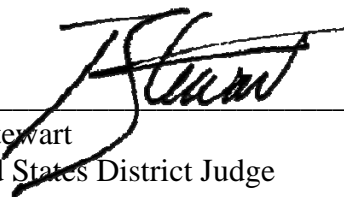
**ORDER ENLARGING TIME FOR FILING
OF APPELLEES' BRIEFS**

This matter having come before the Court on the Stipulation and Joint Motion for Enlargement of Time for Filing Appellees' Brief, and the Court having examined the same

IT IS HEREBY ORDERED that the motion is **GRANTED**. All appellees in this appeal shall have up to and including January 6, 2012 within which to file their brief on appeal.

DATED this 21st day of November, 2011

BY THE COURT:



Ted Stewart
United States District Judge

Approval as to form:

/s/ David P. Billings
Mark W. Dykes
David P. Billings
PARSONS BEHLE & LATIMER
Attorneys for the Intermountain Power Agency

/s/ Robert H. Scott (By DPB with permission)
Robert H. Scott
AKERMAN SENTERFITT, LLP
*Attorney for Commonwealth Coal Services, Inc.
and Tennessee Valley Authority*

/s/ Richard E. Riggs (By DPB with permission)
Richard E. Riggs
Edward C. Meade
Attorneys for Tennessee Valley Authority
(Pro hac vice)

/s/ Michael N. Zundel (By DPB with permission)
Michael N. Zundel
Glenn R. Bronson
PRINCE, YEATES & GELDZAHLER
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Attorneys for Plaintiffs

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

NOV 22 2011

D. MARK JONES, CLERK
BY _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

| | | |
|---------------------------------------|---|-----------------------------|
| LANDCAR MANAGEMENT, LTD., a Utah |) | |
| limited partnership, and LARRY MILLER |) | |
| BELL ROAD, L.P., A Utah limited |) | FINAL JUDGMENT AND |
| partnership, |) | PERMANENT INJUNCTION |
| |) | |
| Plaintiffs, |) | |
| |) | Civil No. 2:11cv01012 |
| v. |) | |
| |) | Judge Dee Benson |
| JOHN ELLEGARD, an individual, and |) | |
| DOES 1-10, |) | |
| |) | |
| Defendants. |) | |

The Court, having determined that it has subject matter jurisdiction herein and personal jurisdiction over the Defendant, based on the Stipulation of Plaintiffs Landcar Management, Ltd. and Larry Miller Bell Road, L.P. (the "Plaintiffs") and Defendant John Ellegard ("Ellegard"), and good cause appearing, hereby enters the following Final Judgment and Permanent Injunction pursuant to Fed. R. Civ. P. 54.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Ellegard, his agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive notice, in person or through counsel, of this Final

Judgment and Permanent Injunction (collectively the "Restrained Parties") shall not use in commerce the names "Larry Miller" or "Larry H. Miller" or derivations thereof. The restrained parties shall not register or use any domain names on the internet employing the trade names "Larry Miller" or "Larry H. Miller" or derivations thereof.

2. Ellegard shall cause any domain names using the names "Larry Miller," "Larry H. Miller," or derivations thereof including, without limitation, www.larrymillerscion.com and www.larrymiller-toyota.com to be transferred to Landcar Management, Ltd. within thirty (30) days hereof.

3. In order to address Plaintiffs' allegations that Ellegard has sent harassing and threatening communications to Plaintiffs' employees, the Restrained Parties shall not communicate orally or in writing (including by text message or by e-mail) with Plaintiffs' officers, directors, partners, employees or family members of such persons (to extent that such relationship is known by Ellegard) except as follows:

- (a) that Ellegard may communicate with the following persons: **NONE;**
- (b) Ellegard may communicate with Plaintiffs by sending a written letter delivered by the United States Postal Service to the attention of Plaintiffs' counsel of record herein or to Scott Bates, Associate General Counsel, 9350 South, 150 East, Suite 1000, Sandy, UT 84070.


4. The Clerk of the Court shall return to Plaintiffs' counsel of record the \$10,000.00 cash bond posted by Plaintiffs on November 7, 2011 pursuant to the Court's Temporary Restraining Order (Docket No. 15).

5. All parties shall bear their own attorney's fees and costs incurred herein.

6. This final judgment and permanent injunction resolves all claims and defenses in this action.

IT IS SO ORDERED:

BY THE COURT:


Honorable Dee Benson
United States District Court Judge

11 - 22 - 11

APPROVED AND FORWARDED


JOHN ELLEGARD, Defendant

UNITED STATES DISTRICT COURT

CENTRAL

District of

UTAH

UNITED STATES OF AMERICA

V.

COMMITMENT TO ANOTHER
DISTRICT

ROBERT JOHN NOVELLI

DOCKET NUMBER

MAGISTRATE JUDGE CASE NUMBER

District of Arrest

District of Offense

District of Arrest

District of Offense

UTD

CR-09-50068-01-TUC-
DCB(DTF)

2:11-MJ-301 DN

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☐ Indictment☐ Information☐ Complaint☒ Other (specify) Violation Warrant

charging a violation of 18 U.S.C. § 3606

DISTRICT OF OFFENSE

ARIZONA

DESCRIPTION OF CHARGES:

Alleged Violations of Supervision

CURRENT BOND STATUS:

☐ Bail fixed at

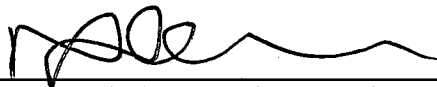
and conditions were not met

☐ Government moved for detention and defendant detained after hearing in District of Arrest☒ Government moved for detention and defendant detained pending detention hearing in District of Offense☐ Other (specify)Representation: ☐ Retained Own Counsel ☒ Federal Defender Organization ☐ CJA Attorney ☐ NoneInterpreter Required? ☒ No ☐ Yes Language:

DISTRICT OF ARIZONA

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

11/22/11
Date

United States Judge or Magistrate Judge

RETURN

This commitment was received and executed as follows:

| | | | |
|--------------------------------|-----------------------|---------------------|--------------------------|
| DATE COMMITMENT ORDER RECEIVED | | PLACE OF COMMITMENT | DATE DEFENDANT COMMITTED |
| DATE | UNITED STATES MARSHAL | | (BY) DEPUTY MARSHAL |